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THE NEW

CRIMINAL COURT MANUAL,

UNIFORM WITH THE

"NEW CIVIL COURT MANUAL"

CONTAINING

ALL THE ACTS AND REGULATIONS RELATING TO CRIMINAL MATTERS

ANNOTATED WITH RULINGS OF THE HIGH COURTS IN INDIA

UP TO JUNE 1894

BY

T. COOPPOOSAWMI RAICKER & Co.,

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THE NEW

CRIMINAL COURT MANUAL.

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THE

NEW CRIMINAL COURT MANUAL.

PENAL SERVITUDE.

ACT NO. XXIV. OF 1855.*

RECEIVED THE G.-G.'S ASSENT ON THE 13TH AUGUST 1855.

An Act to substitute Penal Servitude for the Punishment of Transportation in respect of European and American Convicts.

Preamble.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation,† It is enacted as follows :—

No European or American to be sentenced to transportation.

1.‡ No European or American shall be liable to be sentenced or ordered, by any Court within the territories§ under the Government of India, to be transported.

Terms of penal servitude instead of the present terms of transportation.

2. Any person who, but for the passing of this Act, would, by any law now in force, or which may hereafter be in force in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows (that is to say):—

---

* This Act has been declared to be in force in the whole of British India, except as regards the Scheduled Districts.—See Act XV. of 1874, sec. 3.

It has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX. of 1886.

† Certain words, which were repealed by Act XII. of 1891, have been omitted.

‡ See Acts XVI. of 1874 and XII. of 1876. § See Act XII. of 1876.

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years, and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life.

And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned in relation to such terms of transportation.

Discretion of Courts as to alternative punishments.

3. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but, where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

4. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

5, 6, 7. [*Repealed by Act V. of* 1871.]

8. [*Repealed by Act XII. of* 1867.]

9, 10, 11, 12. [*Repealed by Act V. of* 1871.]

Act not to affect the provisions of certain English Statutes.

13. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria, chapter 43,* or any Act of Parlia-

* "An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of effects of officers and soldiers dying in the service." Repealed by 20 & 21 Vic., c. 66.

ment passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

Sentence when proof that a person is a European or an American.

14. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Interpretation-clause.

15. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

EUROPEAN DESERTERS.

ACT NO. XI. OF 1856.

RECEIVED THE G.-G.'s ASSENT ON THE 11TH APRIL 1856.

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.*

Preamble.

WHEREAS it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the service of Her Majesty* in India, and for punishing persons who aid and encourage such deserters; It is enacted as follows :—

Penalty on master in certain cases if a deserter be concealed on board his ship.

1. If it shall appear that any officer or soldier, being a deserter from the said Forces, has been concealed on board any merchant-vessel, and that the master or person in charge of such vessel for the time being, through ignorance of the fact of such concealment, might have known of the same but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred rupees :

Proviso.

Provided always that no conviction for such offence as is hereinbefore described shall be lawful unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.

Jurisdiction.

2. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency-towns of Calcutta, Madras, and Bombay,† Magistrate,‡ or person lawfully exercising the powers of a Magistrate in any port within the territories of the East India Company within whose jurisdiction the offence may have been

* Certain words, which were repealed by Act XIV. of 1870, have been omitted.

† Certain words, which were repealed by Act XVI. of 1874.

‡ The words "Joint-Magistrate," which were repealed by Act XII. of 1879, have been omitted in secs. 2, 5, 6, and 7.

committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

3. No conviction, order, or judgment of any Justice of the Peace, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and, if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment, shall be aided by what so appears in such depositions.

Saving of proceedings under other Acts.

4. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer, having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under* any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act: Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

Commanding officer or Magistrate may issue warrants for apprehension of deserters.

5. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the commanding officer of any fort, garrison, station, regiment, or detachment, at any port or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above named shall severally under this Act have power to administer;

or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate,† or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place,

there shall appear reason to suspect that any European officer or soldier belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed

* Certain words, repealed by Act XII. of 1874.

† The words "Joint-Magistrate," which were repealed by Act XII. of 1873, have been omitted in secs. 2, 5, 6, and 7.

on shore at any such port or place within the territories of the East India Company, it shall be lawful for such commanding officer or Justice of the Peace, Magistrate,* or person lawfully exercising the powers of a Magistrate* as aforesaid, to issue a warrant, authorizing the person or persons to whom such warrant may be addressed to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such officer or soldier, and to detain him in custody in order to his being dealt with according to law.

Warrant to whom to be addressed, and by whom to be executed.

6. The warrant to be issued under the preceding section may be addressed to any European officer or soldier of the said Forces, or to all constables, peace-officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate,* or person lawfully exercising the powers of a Magistrate, and acting in the execution of this act; and all such persons shall be bound to execute, perform, and obey such warrant.†

Persons apprehended how to be dealt with, &c.

7. Every person who shall be apprehended under any warrant under the 5th section of this Act shall be brought without delay before a Justice of the Peace, Magistrate,* or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the commanding officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the commanding officer of the nearest military station, in order that he may be dealt with according to law.

* The words "Joint-Magistrate," which were repealed by Act XII. of 1873, have been omitted in secs. 2, 5, 6, and 7.

† Now a police-officer may, without orders from a Magistrate, and without a warrant, arrest any person reasonably suspected of being a deserter from Her Majesty's Army.—See the Code of Criminal Procedure (Act X. of 1882), sec. 54, cl. 6.

LUNATIC ASYLUMS.

ACT NO. XXXVI. OF 1858.*

RECEIVED THE G.-G.'S ASSENT ON THE 14TH SEPTEMBER 1858.

An Act relating to Lunatic Asylums.

Preamble.

WHEREAS it is expedient to provide for the reception and detention of lunatics in asylums established for that purpose; It is enacted as follows:—

Lunatic asylums may be established by Government,

1. The executive Government of any presidency or place, with the sanction of the Governor-General of India in Council, may establish asylums for the reception and detention of lunatics at such places within the limits of the said Government as may be deemed proper.

or may be licensed.

Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such asylums within the said limits, and may withdraw such licenses.

Management of asylums.

2. The management of every lunatic asylum, and the care and custody of its inmates, shall be regulated according to such rules as shall, from time to time, be sanctioned by the Executive Government.

Appointment of visitors.

The Executive Government shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer. The inspector of jails (where such office exists) shall be a visitor *ex-officio* of all the asylums within the circle of his inspection.

Monthly inspection by visitors.

3. Two or more of the visitors, one of whom shall be a medical officer, shall, once at the least in every month, together inspect every part of the asylum or asylums of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lunatics therein.

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* This Act is founded, to some extent, on 16 & 17 Vic., c. 96. It has been declared to be in force in the whole of British India, except as regards the Scheduled Districts. —See Act XV. of 1874, sec. 3.

It has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX. of 1886.

4. It shall be the duty of every darogah or district police-officer to apprehend, and send to the Magistrate, all persons found wandering at large within his district who are deemed to be lunatics, and all persons believed to be dangerous by reason of lunacy.

Wandering and dangerous lunatics to be sent to the Magistrate.

Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a medical officer, shall examine such person; and if the medical officer shall sign a certificate in the form A in the schedule to this Act, and the Magistrate shall be satisfied, on personal examination or other proof, that such person is a lunatic, and a proper person to be detained under care and treatment, he shall make an order for such lunatic to be received into the asylum established for the division in which the Magistrate's jurisdiction is situate, or, if such lunatic is not a native of the country, and the circumstances of the case so require, into a lunatic asylum at the presidency; and shall send the lunatic in suitable custody to the asylum mentioned in such order:

Certificate and order for reception in asylum.

Provided that, if any friend or relative of any lunatic, who is believed to be dangerous, shall undertake in writing, to the satisfaction of the Magistrate, that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an asylum, may make him over to the care of such friend or relative:

When lunatic may be committed to the care of his friends or relatives,

Provided also that, if any such friend or relative shall desire that the lunatic may be sent to a licensed asylum instead of the public asylum of the division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the lunatic in such asylum, the Magistrate may send the lunatic to the licensed asylum mentioned in the engagement.

or sent to licensed asylum.

5. If it shall appear to the Magistrate, on the report of a police-officer or the information of any other person, that any person within the limits of his jurisdiction, deemed to be a lunatic, is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed lunatic, the Magistrate may make an order for such lunatic being properly cared for and treated, and if such relative or other per-

In case of neglect or cruel treatment, Magistrate may order person bound to maintain lunatic, to provide for his proper treatment.

son shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month.

If no person bound to maintain him, Magistrate may make an order for his reception in asylum.

If there be no person legally bound to maintain the supposed lunatic, or, if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding section, and, upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic, and a proper person to be detained under care and treatment, may make an order for his reception into such asylum as aforesaid.

Darogah to report neglect.

It shall be the duty of every darogah or district police-officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

Commissioner of Police, &c, to act in the presidency-towns.

6. All acts which the Magistrate is authorized or required to do by the two last preceding sections may be done in the presidency-towns by the Commissioner of Police; and all duties which a darogah or district police-officer is authorized or required to perform may be performed in any of the said towns by an officer of the police-force not below the rank of inspector.

Detention of supposed lunatics under observation.

6A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy is apprehended and sent to the Magistrate or Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him, and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorize the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

(2) If the medical officer certifies further detention than has been authorized under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorize such further detention as he deems to be necessary:

Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the

date on which the first order authorizing his detention for that purpose is made.

(3) The Executive Government may, from time to time, make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section.*

Order and certificate for reception into presidency asylum.

7. Except as otherwise hereinbefore provided, no person shall be received into a lunatic asylum in any presidency-town† without an order under the hand of some person in the form B in the schedule to this Act, together with such statement of particulars as is contained in the said form B ; nor, unless such person has been found lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate, containing the particulars in form A in the schedule to this Act, of two persons, each of whom shall be a physician or surgeon, and one of whom shall be a presidency surgeon or a surgeon in the employment of the Government.

When such order is presented, the visitors or manager of the asylum, before admitting the lunatic into the asylum, may require the friends of the said lunatic to engage to pay expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

Reception in mofussil asylum.

8. *Clause 1.*—In places other than those specified in the last preceding section, no person shall be received into a lunatic asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

Application for order to be made by guardian, if guardian appointed.

Clause 2.—When any person has been adjudged to be a lunatic, and a guardian for such lunatic has been appointed by the Court of Wards or the Collector, or by the Civil Court, if such guardian shall desire that the lunatic be admitted into a lunatic asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a medical officer, shall examine such lunatic, and if the medical officer shall sign a certificate in the form A in the schedule to this Act, and the Judge shall be satisfied that the lunatic is a proper person to be detained under care and treatment in a lunatic asylum, he shall make an order for such person to be received into the asylum established for the division in which his jurisdiction is situate, or, if he think fit, into any licensed asylum mentioned in the application.

* Sec. 6A has been inserted by Act XVIII. of 1886, sec. 1.

† Certain words referring to the Straits Settlements, which were repealed by Act XVI. of 1874.

Clause 3.—If any relative or friend of any person, for whom a guardian has not been appointed by the Court of Wards or the Collector, or by the Civil Court, desires that such person may be admitted into a lunatic asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of lunacy in the same manner as if an application had been made to the Civil Court under the provisions of sections 3 of Act XXXV. of 1858, entitled "*An Act to make better provision for the care of the estates of lunatics not subject to the jurisdiction of the Supreme Courts of Judicature;*" and if the lunacy be established, the Judge may then proceed in the manner prescribed in the second clause of this section.

Application where no guardian appointed.

Clause 4.—Whenever the Judge shall make an order for the reception of any person into a lunatic asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such asylum: Provided, however, that, if it shall appear to the satisfaction of the Judge that the lunatic has not sufficient property, and that no person legally bound to maintain the said lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the lunatic into the asylum, instead of making such order for the payment of expenses as aforesaid.

Order for payment of expenses.

Proviso.

9. "Subject to the provisions of any enactment for the time being in force,"* it shall be lawful for three of the visitors of any asylum, of whom one shall be a medical officer, by writing under their hands, to order the discharge of any person detained in such asylum. When such order is given, if the person is detained under the order of any public officer, notice of the order of discharge shall be immediately communicated to such officer.†

Order of discharge from asylum.

10. When any relative or friend of a lunatic detained in any asylum under the provisions of section 4, section 5, or section 6 of this Act, is desirous that such lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors, or with one of them being a medical officer, and upon the undertaking in writing of such relative or

Order of discharge on undertaking of relative for due treatment of the lunatic.

* The words quoted have been prefixed by Act XVIII. of 1886, sec. 2.

† The provisions of this section have been applied to prisoners in lunatic asylums.—See Act V. of 1871, sec. 31.

friend to the satisfaction of the said Magistrate or Commissioner that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

11. [*Repealed by Act XX. of* 1889.]

Amendment of order or certificate.

12. If, after the reception of any lunatic into any asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may, at any time afterwards, be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

Order and certificate to justify detention and re-capture after escape.

13. Every person received into a lunatic asylum under any such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any police-officer, and conveyed to, and received and detained in, such asylum.

Government when to pay for lunatic's maintenance.

14. When any lunatic is sent to a licensed asylum by order of a Magistrate or Commissioner of Police under section 4, section 5, or section 6 of this Act, and when a lunatic is admitted into such asylum under section 7, or an order for the reception of a lunatic is made under section 8, and no engagement has been taken from the friends of the lunatic, or order made by the Judge for the payment of expenses under the said section 7 or section 8 respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such lunatic, shall be paid by the Government to the manager of such asylum.

Order for payment of cost of lunatic's maintenance.

15. The Magistrate or Commissioner of Police by whom any lunatic has been sent to a lunatic asylum, if it appear to such Magistrate or Commissioner that such lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain, and has the means of maintaining, such lunatic, may apply to the Chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the lunatic may be situate, or the person legally bound to maintain him may reside; and such Court shall enquire into the matter in a summary way and, on being satisfied that such lunatic has an estate applicable to his maintenance, or that

any person is legally bound to maintain, and has the means of maintaining, such lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such lunatic out of such estate or from such person.

Enforcement, &c., of order.

Such order shall be enforced in the same manner, and shall be of the same force and effect, and subject to the same appeal, as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned.

Property in possession of vagrant lunatic.

Any personal property which may be in the possession of a lunatic found wandering at large may be sold by the Magistrate, and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the lunatic, and of any other expenses incurred on his behalf.

Relatives' liability to maintain lunatic.

16. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of powers of Supreme Courts.

17. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be lunatic by inquisition or under the provisions of Act XXXIV. of 1858, entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*," or with the rights of any committee of the person or estate of such lunatic.*

Provision for provinces having insufficient or no asylums.

17A.† In either of the following cases, namely :—

(*a*) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(*b*) when it appears to the Governor-General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government, or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor-General in Council may, from time to time, appoint an asylum in any part of British India beyond the limits of such

* Certain words, which were repealed by Act [illegible] of 1874.

† Sec. 17A has been substituted by Act XX[illegible] 1889, sec. 1, for the original section as amended by Act XVIII. of 1886.

Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics, or any class of lunatics, as to an asylum established under this Act for the division in which his jurisdiction is situate.

Use of provincial asylums as presidency asylums for purposes of the Act.

17B.* The Governor-General in Council may, from time to time, by order direct, with respect to any part of British India which is not annexed to a Presidency, or, being annexed to the Presidency of Fort William, Fort St. George, or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras, or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the Presidency for the purposes of this Act.

Removal of lunatics from one asylum to another.

17C.† Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor-General in Council, to any other asylum in any part of British India.

Interpretation-clause.

18. The word "lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.‡

FORM A.

CERTIFICATE OF MEDICAL OFFICER (*see sections 4 and 8*).

I, the undersigned (*here enter name and official-designation*), hereby certify that I, on the day of , at , personally examined (*here enter name and residence of lunatic*), and that the said is a lunatic (*or* an idiot, *or* a person of unsound mind), and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely :—

1. Facts indicating insanity observed by myself (*here state the facts*).

2. Other facts (if any) indicating insanity communicated to me by others (*here state the information, and from whom.*)

(*Signed.*)

* Sec. 17B has been inserted by Act XVIII. 1886, sec. 3.

† Sec. 17C has been inserted by Act XX. of 1889, sec. 2.

‡ As to the necessity of strictly following the corresponding forms in the English Act, see *Reg.* v. *Pinder*, 24 L. J., Q. B., 148.

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT (*see section 7*).

I, the undersigned hereby request you to receive *A B*, a lunatic [*or* an idiot, *or* a person of unsound mind], as a patient into your asylum. Subjoined is a statement respecting the said *A B*:—

(*Signed*) Name.
Occupation (if any).
Place of abode.
Degree of relationship (if any), or other circumstance of connection with the patient.

Dated this day of one thousand eight hundred and .

To

Superintendent of the Asylum at [*describing the asylum*].

STATEMENT.

[*If any of the particulars in this statement be not known, the fact to be so stated*].

Name of patient, with Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life, and previous occupation (if any).
The religious persuasion, as far as known.
Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether found lunatic by inquisition or enquiry under order of Court, and date of commission or order for inquisition or enquiry.
Whether any member of patient's family has been or is affected with insanity.

(*Signed*) Name.

[*Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added, namely*:—]

Occupation (if any).
Place of abode.
Degree of relationship (if any), or other circumstance of connection with the patient.

BREACHES OF CONTRACT.

ACT NO. XIII. OF 1859.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH MAY 1859.

*An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases.**

Preamble.

WHEREAS much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several presidency-towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of artificers, workmen, and labourers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

Complaint to Magistrate if workman neglect to perform work for which he has received advance.

1. When any artificer, workman, or labourer, shall have received from any master or employer resident or carrying on business in any presidency-town,† or from any person acting on behalf of such master or employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other artificers, workmen, or labourers, if such artificer, workman, or labourer shall wilfully, and without lawful or reasonable excuse, neglect or refuse to perform, or get performed, such work according to the terms of his contract, such master or employer, or any such person as aforesaid, may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such artificer, workman, or labourer, and shall hear and determine the case.

Magistrate may order repayment of advance or performance of contract.

2. If it shall be proved to the satisfaction of the Magistrate that such artificer, workman, or labourer, has received money in advance from the complainant on account of any work, and has wilfully, and

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* Cf. 4 Geo. IV, c. 34.

Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV. of 1874.

See *Gazette of India*, 22nd October 1881, Pt. I, p. 504; *ibid*, 28th December 1878, Pt. I., p. 747.

† Certain words, which were repealed by Act XVI. of 1874.

without lawful or reasonable excuse, neglected or refused to perform, or get performed, the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such artificer, workman, or labourer, to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract ; and, if such artificer, workman, or labourer, shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labour for a term not exceeding three months, or, if the order be for the repayment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid ; provided that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any civil remedy by action or otherwise which he might have had but for this Act.

Penalty if workman fail to comply with order.

3. When the Magistrate shall order any artificer, workman, or labourer, to perform, or get performed, any work according to the terms of his contract, he may also, at the request of the complainant, require such artificer, workman, or labourer to enter into a recognizance, with sufficient security, for the due performance of the order ; and, in default of his entering into such recognizance, or furnishing such security to the satisfaction of the Magistrate may sentence him to be imprisoned with hard labour for a period not exceeding three months.

Magistrate may require workman to give security for due performance of order.

4. The word "contract," as used in this Act, shall extend to all contracts and agreements, whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

To what contracts Act extends.

5. This Act may be extended by the Governor-General of India in Council or by the Executive Government of any presidency or place to any place within the limits of their respective jurisdictions.* In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such officer or officers as shall be specially appointed by Government to exercise such powers.

Act may be extended by Government.

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* Extended to the Panjab, July 13, 1859 : to all Collectorates in the Bombay Presidency, Bombay Government Gazette, 1860, p. 594 : to Sindh, *ibid.*, Dec. 4, 1873, p. 1000: to the District of Nimar, Calcutta Gazette, 1862, p. 2080 : to town and cantonment of Rangoon, by Notification, dated Dec. 30, 1865 : to Pegu Division of Lower Burma, by Notification, dated July 13, 1861—see Calcutta Gazette, p. 2340 : to Tenasserim Division of Lower Burma, by Notification, dated Oct. 14, 1861—see Calcutta Gazette, 1861, p. 3189: to Arakan Division of Lower Burma, by Notification, dated Jan. 25, 1864—see Calcutta Gazette, 1864, p. 45 : to Jubbulpore and Saugor, by Notification, dated Aug. 16, 1859—see Calcutta Gazette, 1859, p. 1954 : to the military cantonment and zila of Puna—see Bombay Government Gazette, dated Sep. 8, 1859, Vol. II., p. 269.

NOTES UNDER THE BREACHES OF CONTRACT ACT.

The imprisonment of a defendant by order of the Magistrate under Act XIII of 1859 does not preclude the plaintiff from proceeding by civil suit for recovery of money advanced to the defendant for the performance of work.—2 Madr. H. C. R., 427.

Coolies in Assam, who have received advances in contemplation of work to be done, may be proceeded against under Act XIII of 1859.—8 W. R., 6.

Where a contract was made by the defendant that a number of coolies should be brought by him to an estate, and remain at work on the estate for a specified time, and there had been a breach of the contract, *held* that the case is within sec. 2 of Act XIII of 1859.—Pro., July 13, 1867, 3 Madr. H. C. R., App. 25.

An order of a Magistrate, passed under sec. 2 of Act XIII of 1859, "that the prisoner should work for a certain period, and, in case he failed to do so, should suffer rigorous imprisonment for one month," annulled as to the latter part, the Magistrate having no power to make that order until the failure had occurred and been proved before him.—4 Bom. H.C.R., 37.

Act XIII. of 1859 relates to fraudulent breaches of contract, and does not apply where an advance had not only been worked off by a labourer, but an actual balance is due to him.—8 W. R., 69.

Act XIII. of 1859 does not apply to contracts to serve as domestic servants, but to contracts to serve as an artificer, workman, or labourer.—12 W. R., 26.

Act XIII. of 1859 does not apply to contracts for a "chakri" (domestic or personal service), but to contracts to serve as artificer, workman, or labourer.—3 B. L. R., A. Cr. 32.

Madr. Act III. of 1865 authorizes every Magistrate to take cognizance of offences against Act XIII. of 1859.—Pro., Aug. 9, 1869, 4 M. H. C. R., App. 64.

An order directing compensation under Act XIII. of 1859 is illegal. Such portion of the money advanced to defendant as has been appropriated to the fulfilment of the contract, or as could justly be set off against a part-fulfilment of the contract, ought not to be ordered to be refunded.—Pro., Aug. 17, 1869, 4 Madr. H. C. R., App. 67.

A breach of contract to supply wood does not fall within the purview of Act XIII. of 1859.—4 B. L. R., App. 1.

Where a labourer contracted with the manager of a silk-factory for a money-consideration to work at the factory for four months in a year for a period of three years, and broke the terms of his contract, he was held liable to a prosecution under Act XIII. of 1859, and the order of the Magistrate holding that such a contract was an unreasonable one, and therefore one which ought not to be enforced by him, was set aside.—14 W. R., 29.

Where there is no provision in the Penal Code, and any other law (such as the Breach of Trust Law, Act XIII. of 1859) provides punishment for an offence, any person committing such offence may be tried under that law.—14 W. R., 80.

On the construction of sec. 2 of Act XIII. of 1859, *held* that gold or silver money given to an artificer as raw material wherewith to make the article contracted for is an "advance of money" within the meaning of the section. *Held* also that a sentence of imprisonment should not be announced beforehand in the order directing performance of the contract, but should follow on a complaint of non-compliance.—Pro., April 26, 1871, 6 Madr. H.C.R., App. 24.

In cases falling under Act XIII. of 1859 the Calendar should be submitted to the appellate authority immediately that an order under the first part of sec. 2 is passed. When further proceedings under the latter part of sec. 2 are taken, a simple copy of the order containing a reference of the Calendar, should be sent.—Pro., Jan. 5, 1872, 7 Madr. H. C. R., App. 1.

A labourer agreed to serve in consideration of money due from him on account of previous debts. He served for three months only, and then quitted service in violation of the agreement. He was prosecuted and convicted of breach of contract of service under Act XIII. of 1859. *Held* that he was not liable to be dealt with criminally, because there was no fraudulent breach of contract within the meaning of Act XIII. of 1859, and because, further, no money in advance was received, the consideration for the agreement to serve being an old debt.—9 Bom. H. C. R., 171.

The High Court declined to exercise their extraordinary powers of revision in a case in which the Joint Magistrate dismissed a complaint of breach of contract under Act XIII. of 1859, on the ground that that Act did not apply to this contract, which was a contract to work at a certain factory.—18 W. R , 53.

A butcher contracting to supply skins is not within Act XIII of 1859. —Pro., Nov. 26, 1872, 7 Madr. H. C. R., App. 12.

Defendant, in consideration of an advance of money received from complainant, bound himself to work for complainant until the repayment of the sum advanced. For breach of this contract complainant proceeded against defendant under Act XIII. of 1859. *Held* that the contract was not within the Act.—Pro., Dec. 12, 1873, 7 Madr. H. C. R., App. 30.

A washerman is not an artisan within the meaning of Madr. Act III of 1871.—I. L. R., 1 Madr. 174.

A contract to supply labourers and get labour performed by them, even though the nature and extent of the work are not clearly specified, falls within the provisions of Act XIII. of 1859.—I. L. R., 1 Madr. 280.

A mahout (or elephant-driver) does not come within the provisions of Act XIII. of 1859.—8 C. L. R., 254.

An employer of workmen residing or carrying on business in the city of Mirzapur, alleging that he had advanced money to certain workmen on the understanding that they would work for him and no one else until they had repaid such money, and that they had broken such contract by leaving his employment, made a complaint against such workmen under Act XIII. of 1859, which had been extended to the "station" of Mirzapur by the Local Government. It appeared that such money was advanced by way of loan, and without any reference to the wages of such workmen or the payment for the work performed by them, and that no deduction on account of such advance was ever made from their wages or the payments made to them. *Held* that the contract between the parties was something quite

different from any contract contemplated by Act XIII. of 1859, and that that Act was therefore not applicable. *Held* also that it was doubtful whether that Act applied locally, as it was not shown that the city of Mirzapur was comprised within the " station " of Mirzapur.—I. L. R., 3 Al. 744.

The inquiry to be made under sec. 2 of Act XIII. of 1859 is not an inquiry into an offence which may be tried summarily.—4 Madr. 234.

Where an order has been made by a Magistrate under Act XIII. of 1859, sec. 2, for the fulfilment of a labour-contract, a sentence of imprisonment for disobeying such order without complaint made and without taking statements from the accused, is illegal, although the accused, before the order was made, may have stated their inability to perform the work stipulated for.—5 Madr. 376.

Act XIII. of 1859 (to provide for the punishment of breaches of contract by artificers, workmen, and labourers in certain cases extended to all the collectorates of the Bombay Presidency by notification of the Government of Bombay, dated 10th of May 1860) does not apply to a contract whereby a person, in consideration of receiving Rs. 45, bound himself to another to render service for " agricultural and other purposes" for the period of one year.—7 Bom. 379.

Having agreed to work for wages in a tannery, and received Rs. 10 from M, his employer, T promised to work off the advance by allowing M to deduct 8 annas a week from his weekly wages. *Held* that the provisions of Act XIII. of 1859 were applicable to this contract.—7 Madr. 131.

A person, whose ordinary business was that of a contracting bricklayer, and who did not himself work, received an advance, contracted to get certain earthwork done on a race-course, and committed a breach of contract. *Held* that he was not an artificer, workman, or labourer within the meaning of Act XIII. of 1859.—7 Madr. 100.

B, having contracted in foreign territory to labour for S in British territory, broke his contract. He was arrested in foreign territory, brought into British territory, prosecuted under Act XIII. of 1859, and ordered to perform the contract. *Held* that the Court had no jurisdiction.—7 Madr. 354.

A contract, in consideration of an advance of money to supply labourers to do certain work on an estate, falls within the scope of Act XIII of 1859, and the fact that such contract contains covenants to pay penalties in default of supplying the labourers, and to repay the advance, if necessary, by personal labour for five years, does not take the contract out of the operation of the Act, so as to make illegal an order, directing the contractor to be imprisoned for failure to comply with an order to repay the advance.—8 Madr. 379.

An advance of money and grain having been made to a labourer for work to be done, the labourer failed to complete the work, and an order was passed by a Magistrate, under sec. 2 of Act XIII. of 1859, directing repayment of the balance of the advance not worked off by the labourer. *Held* that, as it was not proved that the labourer was offered and accepted the grain in lieu of money to be advanced, the order was illegal.—8 Madr. 294.

The petitioner, who as sub-contractor had engaged to do cerain work for which he was paid an advance, but did not himself work, was convicted by a Magistrate, under sec. 2 of Act XIII. of 1859, of the offence of breach of contract, and sentenced to undergo one month's imprisonment in default

of his failure to fulfil the contract. *Held* that he was not an artificer, workman, or labourer within the meaning of sec. 2 of Act XIII. of 1859. The conviction and sentence were accordingly set aside.—10 Bom. 96.

V, having received an advance of money from G, contracted to labour for him in foreign territory. Having broken the contract, V was prosecuted under Act XIII. of 1859, ordered to repay, and sentenced to imprisonment in default. *Held* that the order was illegal.—10 Madr. 21.

Act XIII of 1859 being a penal enactment, the Limitation Act is no bar to a claim under sec. 2 to recover an advance made to a labourer.—11 Madr. 332.

Act XIII of 1859 (an Act to provide for the punishment of breaches of contract by artificers, workmen, and labourers in certain cases) applies only "where there has been an advance of money on account of any work," which words do not include mere loans or old debts. The interference of the Magistrate under the Act is limited to cases where the neglect or refusal to perform is wilful and without lawful and reasonable excuse. As a rule, a mere breach of contract ought not to be an offence, but only to be the subject of a civil action. And a man cannot be treated as a criminal for not performing a contract which could not be enforced against him by civil process.—16 Bom. 368.

POLICE.

ACT NO. V. OF 1861.*

RECEIVED THE G.-G.'S ASSENT ON THE 22ND MARCH 1861.

An Act for the Regulation of Police.

WHEREAS it is expedient to re-organize the Police, and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :—

Preamble.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :—

Interpretation-clause.

The words "Magistrate of the district" shall mean the chief officer charged with the executive administration of a district, and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled :

The word "Magistrate" shall include all persons within the general police-district, exercising all or any of the powers of a Magistrate :

The word "police" shall include all persons who shall be enrolled under this Act :

The words "general police-district" shall embrace any presidency, province, or place, or any part of any presidency, province, or place, in which this Act shall be ordered to take effect :

The word "property" shall include any moveable property, money, or valuable security :

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Words importing the masculine gender shall include females :

The word "person" shall include a Company or Corporation :

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* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV of 1874.

It has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX. of 1886.

Beng. Act VII. of 1869 is to be read and taken in the provinces under the control of the Lieutenant-Governor of Bengal as part of this Act.—See Beng. Act VII. of 1869, sec. 6.

See *Gazette of India*, Oct 22, 1881, Part I., p. 504.

Secs. 10, 12, 23, 24, 26, 27, 29, 31, and 34 have been extended, under the same Act, to the Scheduled District of Coorg.—See *Gazette of India*, Feb. 8, 1879, Pt. I, p. 96.

The word "month" shall mean a calendar month :

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats, and swine.

Constitution of the force.

2.* The entire police establishment under a Local Government shall, for the purposes of this Act, be deemed to be one police force, and shall be formally enrolled ; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall, from time to time, be ordered by the Local Government, subject to the sanction of the Governor-General of India in Council.†

Superintendence in the Local Government.

3. The superintendence of the police throughout a general police-district shall vest in, and, subject to the general control of the Governor-General of India in Council, shall be exercised by, the Local Government‡ to which such district is subordinate ; and, except as authorized under the provisions of this Act, no person, officer, or Court, shall be empowered by the Local Government to appoint, supersede, or control any police-functionary.

Inspector-General of Police, &c.

4. The administration of the police throughout a general police-district shall be vested in an officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General and Assistant Inspectors-General as to the Local Government shall seem fit.

The administration of the police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary.

The Inspector General and other officers above mentioned shall, from time to time, be appointed by the Local Government, and may be removed by the same authority.

Powers of Inspector-General.

5. The Inspector-General of Police shall have the full powers of a Magistrate throughout the general police-district ; but shall exercise those powers sub-

* Sec. 2, so far as it relates to the provinces under the control of the Lieutenant-Governor of Bengal, has been repealed by Beng. Act VII of 1869.

† Sec. 2.—In Upper Burma, the following words are to be added to sec. 2 : "All Thugyis and Myothugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act."—See Act XX. of 1886, sec. 7 (1) (*b*).

‡ The powers of a Local Government under this Act (except sec. 4) have been delegated (under Act XXXII. of 1867) to the Chief Commissioners of Oudh, the Central Provinces, and British Burma.—See *Gazette of India*, Mar. 7, 1868, p. 358; *ib.*, June 12, 1869, p. 18.

Exercise of powers.

ject to such limitation as may, from time to time, be imposed by the Local Government.

6. [*Repealed by Act X. of 1882.*]

Appointment, dismissal, &c., of inferior officers.

7. The appointment of all police-officers other than those mentioned in section 4 of this Act shall, under such rules as the Local Government shall, from time to time, sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General, and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any police-officer whom they shall think remiss or negligent in the discharge of his duty or unfit for the same, or fine any police-officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who, by any act of his own, shall render himself unfit for the discharge thereof.

Certificates to police-officers.

8. Every police-officer so appointed shall receive, on his appointment, a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions, and privileges of a police-officer.

Surrender of certificate.

Such certificate shall cease to have effect whenever the person named in it is suspended,* or dismissed, or otherwise removed from employment in the police-force, and shall be immediately surrendered to the superior officer of such person or to some other officer empowered to receive the same.

Police-officers not to resign without leave or two months' notice.

9. No police-officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

Police-officers not to engage in other employment.

10. No police-officer shall engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

11. [*Repealed by Act XVI. of* 1874.]

Power of Inspector-General to make rules.

12. The Inspector-General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall

* *Reg.* v. *Dinanath Gangooly*, 8 Beng., Ap., 59.

deem expedient, relative to the organization, classification, and distribution of the police-force; the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police-force as the Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

Additional police-officers employed at cost of individuals.

13. It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of police-officers to keep the peace at any place within the general police-district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application: Provided that it shall be lawful for the person, on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the police-officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment of additional force in the neighbourhood of railway and other works.

14. Whenever any railway, canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector-General that the employment of an additional police-force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory, or concern, it shall be lawful for the Inspector-General, with the consent of the Local Government, to depute such additional force to such place and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory, or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional police in disturbed or dangerous districts.

15. It shall be lawful for the Inspector-General of Police, with the sanction of the Local Government, to be notified by proclamation in the Government Gazette, and in such other manner as the

Local Government shall direct, to employ any police-force in excess of the ordinary fixed complement to be quartered in any part of the general police-district which shall be found to be in a disturbed or dangerous state, or in any part of the General police-district in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional police-force, and the Magistrate of the district, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional police-force.

16. All moneys payable under the last three preceding sections, on account of any additional police-force employed as therein directed, shall be recoverable under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the district of such Magistrate, or by suit in any competent Court; and the moneys paid on this account or so recovered shall be credited to a fund to be called "The General Police Fund," and shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.

Special police-officers.

17. When it shall appear that any unlawful assembly, or riot, or disturbance of the peace, has taken place or may be reasonably apprehended, and that the police-force ordinarily employed for preserving the peace is not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in the place where such unlawful assembly, or riot, or disturbance of the peace, has occurred, or is apprehended, it shall be lawful for any police-officer not below the rank of inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such police-officer may require to act as special police-officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Powers of special police-officers.

18. Every special police-officer so appointed shall have the same powers, privileges, and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary officers of police.

Refusal to serve as special police-officers.

19. If any person, being appointed a special police-officer as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance

of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal, or disobedience.

Authority to be exercised by police-officers.

20.* Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.†

Village-police officer.

21. Nothing in this Act shall affect any hereditary or other village-police officer, unless such officer shall be enrolled as a police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village-police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police-chaukidars in the Presidency of Fort William.

If any police-officer appointed under Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police-chaukidars in Cities, Towns, Stations, Suburbs, and Bazars in the Presidency of Fort William in Bengal*) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

Police-officers always on duty, and may be employed in any part of district.

22. Every police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police-officer in any part of the general police-district.

Duties of police-officers.

23. It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence‡ affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house, or other place of resort of loose and disorderly characters.

Police-officers may lay information, &c.

24. It shall be lawful for any police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant, or such

* In Assam, sec. 20 applies only to police-officers below the grade of Assistant District Superintendent.—See Reg. II. of 1883, sec. 3.

† See now Act X. of 1882.

‡ See Act XLV. of 1860, sec. 177.

other legal process as may by law issue against any person committing an offence.*

Police officers to take charge of unclaimed property, and be subject to Magistrate's orders as to disposal.

25. It shall be the duty of every police-officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district.

The police-officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

Magistrate may detain property, and issue proclamation.

26. The Magistrate of the district may detain the property, and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Confiscation of property if no claimant appear.

27. If no person shall, within the period allowed, claim such property, it may be sold under the orders of the Magistrate of the district, and the proceeds shall be at the disposal of Government.

Persons refusing to deliver up certificate, &c., on ceasing to be police-officers.

28. Every person having ceased to be an enrolled police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments, and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both.

Penalties for neglect of duty, &c.

29. Every police-officer† who shall be guilty of any violation of duty, or wilful breach or neglect of any rule or regulation or lawful order made by competent authority; or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months; or who shall engage, without authority, in any employment other than his police-duty; or who shall be guilty of cowardice; or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

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* See Act X of 1882, Sch. I.

† See 8 Beng. App. 58; 3 N.-W. P., 128.

30. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

Regulation of public processions, &c.

They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Music in the streets.

31. It shall be the duty of the police to keep order on the public roads and in the public streets, thoroughfares, ghats, and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghat, or landing-place, may be thronged, or may be liable to be obstructed.

Police to keep order in public roads, &c.

32. Every person opposing or not obeying the orders issued under the last two preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Penalty for disobeying orders issued under last two sections, &c.

33. Nothing in the last three preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

Saving of control of Magistrate of district.

34. Any person who, on any road or in any street or thoroughfare within the limits of any town to which this section shall be specially extended by the Local Government, commits any of the following offences* to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine† not exceeding fifty rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any police-officer to take into custody, with-

Punishment for certain offences on roads, &c.

Power of police-officers.

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* Municipal committees in the Central Provinces are empowered to make rules for declaring what acts or omissions within town-limits shall be considered to be public or common nuisances under Act V. of 1861.—See Act XI. of 1873, sec. 14, cl. *a*.

† Fines levied in municipalities under this section are to be credited to municipal funds.—See, as to Lower Burma, Act XVII. of 1884, sec. 60, cl. *b*; as to the North-Western Provinces and Oudh, Act XV. of 1873, sec. 30, & Act XV. of 1883, sec. 47 (1), cl. *b*; as to the Panjab, Act XIII. of 1884, sec. 67, cl. *b*.

out a warrant, any person who, within his view, commits any of such offences, namely :—

First.—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle :

Slaughtering cattle, furious riding, &c.

Second.—Any person who wantonly or cruelly beats, abuses, or tortures any animal ;

Cruelty to animals.

Third.—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading, or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Obstructing passengers.

Fourth.—Any person who exposes any goods for sale :

Exposing goods for sale.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials ; or who constructs any cowshed, stable, or the like ; or who causes any offensive matter to run from any house, factory, dung-heap, or the like :

Throwing dirt into street.

Sixth.—Any person who is found drunk or riotous, or who is incapable of taking care of himself :

Being drunk or riotous.

Seventh.—Any person who wilfully and indecently exposes his person or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservior not being a place set apart for that purpose :

Indecent exposure of person.

Eighth.—Any person who neglects to fence in, or duly to protect, any well, tank, or other dangerous place or structure.

Neglect to protect dangerous places.

35.* Any charge against a police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.

Jurisdiction.

Proviso.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act :

Power to prosecute under other law not affected.

* See Act X of 1882, Sch. I.

Proviso. Provided that no person shall be punished twice for the same offence.

Levy of forfeiture and penalties by distress.

37. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be leived by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the district, by warrant under the hand of the Magistrate who made the order.

Procedure until return is made to warrant of distress.

38. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

39. If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

40. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to police and informers payable to general police-fund.

41. All sums paid for the service of process by police-officers, and all rewards, forfeitures, and penalties, or shares of rewards, forfeitures, and penalties, which by law are payable to informers, shall, when the information is laid by a police-officer, be paid into the General Police Fund.*

* See sec. 16, *supra*.

42. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act or under the general police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise ;* and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the district in which the act was committed, one month at least before the commencement of the action.

Limitation of action.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by, or on behalf of, the defendant; and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action :

Tender of amends.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Proviso.

43. When any action or prosecution shall be brought or any proceedings held against any police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Plea that act was done under warrant.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate ; and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine :

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

Proviso.

44. It shall be the duty of every officer in charge of a police-station to keep a general diary in such form as shall, from time to time, be prescribed by the Local Government, and to record therein all complaints and charges

Police-officers to keep diary.

* So much of sec. 42 as relates to the limitation of suits was repealed by Act IX of 1871, sec. 2.

preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

The Magistrate of the district shall be at liberty to call for and inspect such diary.

Local Government may prescribe form of returns.

45. The Local Government may direct the submission of such returns by the Inspector-General and other police-officers as to such Local Government shall seem proper, and may prescribe the form in which such returns shall be made.

Scope of Act.

46. This Act shall not take effect in any presidency, province, or place, unless the same shall be extended to such presidency, province, or place by the Governor-General of India in Council by an order to be published in the Government Gazette.

When the Act shall have been so extended, it shall be carried into effect in such presidency, province, or place as the Local Government, by an order to be published in the official Gazette, shall direct.

Authority of District Superintendent of Police over village-police.

47. It shall be lawful for the Local Government, in carrying this Act into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the district over any village-watchman or other village-police-officer for the purposes of police shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police.

FORM.

(*See section* 8.)

A B has been appointed a member of the police force under Act V of 1861, and is vested with the powers, functions, and privileges of a police-officer.

ACT NO. III. OF 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH FEBRUARY 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province, or place of the police-establishment of which they are members ; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called "The Police Act, 1888."

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Constitution of police forces for special purposes.

2. (1) Notwithstanding anything in Act XXIV. of 1859 (*an Act for the better regulation of the police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*an Act for the regulation of police*), "or the corresponding law for the time being in force in the territories administered by the Government of Bombay in Council,"* or any Act relating to the police in any presidency-town, the Governor-General in Council may, by notification in the Gazette of India, create a general police-district embracing parts of two or more presidencies, provinces, or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police, shall, subject to any orders which the Governor-General in Council may make in this behalf, be discharged by the Governor-General in Council, or by such Local Government or other authority as the Governor-General in Council may appoint, and the functions of the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police, and Assistant District superintendents under Act V of 1861, and any other enactment for the time being in force, shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor-General in Council may make in this behalf, members of a police-force enrolled for service in a general police-district created under sub-section (1) shall have within every part of any presidency, province, or place, of which any part is included in the district, the powers, duties, privileges, and liabilities, which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor-General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3)

* The words quoted have been substituted for certain words repealed by Act XII of 1891, sch. ii.

any of the powers which an officer in charge of a police station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor-General in Council may make in this behalf, a part of a presidency, province, or place included in a general police-district under sub-section (1) shall not, by reason of being included therein, cease for the purposes of any enactment relating to police to be part of the presidency, province, or place, of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

Employment of police-officers beyond the presidency, province, or place to which they belong.

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor-General in Council may make in this behalf, a member of the police-establishment of any presidency, province, or place, may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province, or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part, and be vested with the powers, functions, and privileges, and be subject to the liabilities of a police-officer belonging to that establishment.

NOTES UNDER THE POLICE ACTS.

A Magistrate only, and not a Sessions Judge, has power to try cases under sec 29, Act V of 1861. Sec. 152 of the Code of Criminal Procedure (Act XXV of 1861) does not apply to cases in which there has not been a continuous detention of 24 hours.—1 W. R., 5.

A Deputy Magistrate, exercising the full powers of a Magistrate, has jurisdiction, under sec. 29, Act V of 1861, to fine police-officers for violation of duty.—4 W. R., 2.

Convictions under the Police Act (V of 1861) are appealable like other convictions. Where the appellants are convicted by an officer exercising the powers of a Magistrate, and sentenced to imprisonment exceeding the limit prescribed by sec. 411 of the Code of Criminal Procedure (Act XXV of 1861), the appeal lies to the Sessions Court.—5 W. R., 22.

A police-officer (chief constable), being authorized by law to depute his subordinate to proceed to the place where crime is reported to have been committed, cannot be supposed to have contravened the law by not proceeding to the spot himself, and therefore the conviction of the prisoner on the charge of wilful violation of duty was illegal.—1 Agra H. C. R., 1.

Where an accused was charged before the Sessions Judge under both sec. 409, Penal Code, and under the special law, sec. 29, Act V of 1861, and was acquitted under the former section, it was held that the Sessions Judge

could not convict under the latter law, as the Magistrate alone has jurisdiction to convict under that law.—9 W. R., 36.

Placing tanbans in a public thoroughfare is an offence under sec. 34 of Act V of 1861. But a Sub-Magistrate is not competent of his own motion to institute the prosecution.—2 N.-W. P. H. C. R., 5.

Where a police-officer duly appointed under Act V of 1861 was engaged in the discharge of his duty as such police-officer at a time when an unlawful assembly took place, it was held that he was competent to apprehend any of the members of such unlawful assembly; and a person who rescued the party apprehended was convicted of rescuing from lawful custody within the meaning of sec. 225 of the Penal Code.—13 W. R., 75.

A police-officer negligently or improperly submitting an incorrect report of a local investigation may be punished under sec. 29 of Act V of 1861 in cases where the proof is insufficient to bring the case under sec. 218 of the Penal Code.—15 W. R., 17.

In a prosecution under the Police Act (V of 1861) the Magistrate is bound to take into consideration and determine a prisoner's plea that he is a European British subject sec. 29 of Act V of 1861 does not give to the Magistrate jurisdiction over European British subjects.—3 N.-W. P. H. C. R., 128.

A police-officer under suspension cannot be convicted, under sec. 29, Act V of 1861, of withdrawing from the duties of his office without permission.—17 W. R., 12; 8 B. L. R., App. 58.

Before a police-officer can be convicted, of an offence under sec. 29, Act V of 1861, it must be found that he is guilty, not of mere neglect, but of deliberate and intentional violation of duty.—17 W. R., 34; 8 B. L. R., App. 60.

Where a Magistrate appointed special constables under sec. 17, Act V of 1861, on the ground that a murder had occurred, and he was apprehensive that frequent murders would take place, it was *held* that his orders were illegal, that section referring to cases of unlawful assembly, riot, or disturbance of peace only; but that, as the order was one of a purely executive nature, the High Court had no power to interfere with it. The Magistrate should rather have proceeded under sec. 15 of the Act, and applied for sanction to an increase in the police-force.—18 W. R., 67; 10 B. L. R., App. 4.

Mere rashness or negligence on the part of a police-officer before ordering the search of a man's house for stolen property does not constitute an offence amounting to violation of duty under sec. 29, Act V of 1861. The violation there intended must be wilful, intentional violation of some clear duty or other.—19 W. R., 7.

Under Act V of 1861, a police-officer is bound to communicate information to his superior officer regarding the commission of a riot affecting the public peace, and to make an entry thereof in the diary which he is required by sec. 44 of that Act to keep, and the omission to give such information brings him within the purview of sec. 177 of the Penal Code.—21 W. R., 30.

Sec. 42 of Act V of 1861 (which refers to all actions and prosecutions, by persons deeming themselves aggrieved, against any person, which may be lawfully brought for anything done, or intended to be done, under the

provisions of the Act, or under the general police-powers given by it) has no bearing on, or connection with, sec. 29 of the Act, by which police-officers are punishable for breaches of discipline and disobedience of orders committed by them as against their immediate superiors, and the rules and (regulations of the body in which they have been enrolled.—7 N.-W. P. H. C. R., 237.

Acts or omissions punishable under Act V of 1861, sec. 29, come within the category of "offences punishable under any law other than the Penal Code" (Code of Criminal Procedure, sec. 8), and those offences likewise fall within the terms of sec. 148 of the same Code.—25 W. R., 20.

Where a police-officer, who had been called on to answer to a charge of bribery, which was not sustained by the evidence, was found guilty of violation of duty under sec. 29, Act V of 1861, of which offence the trying officer found sufficient evidence in the course of the trial, *held* that an accused person called on to answer to a specific charge cannot be convicted on an entirely different charge without previous notice of the offence imputed to him, and opportunity being afforded him of meeting the accusation under sec. 23, Act V of 1861. A police-officer is not bound to arrest a person against whom no proceedings have been directed if he believes that he has not sufficient grounds for apprehending him.—26 W. R., 8.

The failure of a police-constable to resume his duty on the expiration of his leave does not constitute an offence under sec. 29, Act V of 1861.—I. L. R., 6 Cal. 625; 8 C. L. R., 56.

Sec. 29 of Act V of 1861 is not applicable to persons who are not police-officers. Where a Magistrate, acting merely on certain information contained in a letter addressed to him, convicted a person for obstruction and nuisance, the High Court set aside the conviction, on the ground that there was no complaint and no evidence.—10 C. L. R., 521.

A police-officer obtained leave of absence for one month, a substitute being appointed, and overstayed his leave twenty-nine days. *Held* that such absence without leave did not amount to "withdrawal from the duties of his office without permission," within the meaning of sec. 29 of Act V of 1861.—I. L. R., 6 Al. 495.

A District Superintendent of Police directed his constables to cut down the jungle in the vicinity of their lines, and, on their refusal to comply, ordered them extra drill every day. One of such constables, not turning out to such extra drill, was thereupon prosecuted, and convicted of neglect of duty under sec. 29, Act V of 1861. *Held* that sec. 29 provided for no such offence, and that any neglect of duty short of a violation of duty does not amount to an offence under that section. *Held* further that the omission to attend such extra drill did not amount to an offence under that section, as the words "lawful order" used in the section mean an order which the authority mentioned therein is competent to make, and it did not appear that a District Superintendent of Police was competent to order his constables to cut down the jungle in the vicinity of their lines, and, on their refusal to do so, to order them extra drill.—In the Matter of the Petition of Bhola Nath Das.—I. L. R., 12 Cal. 427.

ACT NO. XXIV. OF 1859.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH SEPTEMBER 1859.

An Act for the better regulation of Police within the territories subject to the Presidency of Fort Saint George.

Preamble.

WHEREAS it is expedient to make the Police force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police Force and improve the condition of the Village Police: It is enacted as follows:—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say) :—

"Magistrate."

The word "Magistrate" includes all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate.

"Subordinate."

The word "Subordinate" as applied to Police functionaries, shall mean District Superintendents and their Assistants.

"Police."

The word "Police" shall include General and Village Police, Cuttoobadies, Kavilgars, and all other persons, by whatever name known, who exercise any Police functions throughout the Madras Presidency.

"General Police District."

The expression "General Police District" shall embrace all Districts to which the operation of this Act shall be extended.

"Property."

The word "Property" shall include any chattel, money, or valuable security.

Number.

Words importing the singular number, shall include the plural number, and words importing the plural number, shall include the singular number.

"Gender."

Words importing the masculine gender shall include females.

"Person."

The word "person" shall include company or corporation.

"Month."

The word "month" shall mean calendar month.

"Cattle."

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2, 3. [*Repealed by Act XIV. of* 1870.]

Superintendence vested in Governor in Council.

4. The superintendence of the Police throughout the General Police District shall vest in, and be exercised by the Governor in Council, and, except as authorized by him under the provisions of this Act, no person, officer or Court shall be empowered to appoint, supersede, or control any Police functionary, any Regulation, Act or usage to the contrary notwithstanding.

Inspector-General of Police, &c.

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector-General of Police for the Presidency of Madras, and in such subordinates as to the Governor in Council shall seem fit, who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority, and who shall receive such salary as the Governor-General of India in Council shall allow.

Powers of Police, &c.

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police authorities shall be vested in the Police authorities appointed under this Act; provided always that no Police functionary so appointed shall possess or exercise any judicial or revenue authority.

Inspector-General to be appointed a Magistrate.
To act as such under the orders of Government.
District Superintendent may be appointed a Magistrate.
In what cases he may act in that capacity.

7. The Inspector-General of Police shall be appointed a Justice of the Peace; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest in any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as he may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders, in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution of the Force.

8. The entire Police establishment of the Madras Presidency shall for the purpose of this Act be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner as shall be from time to time ordered by the Governor in Council with the sanction of the Governor-General of India in Council.

9. The Inspector-General may from time to time, subject to the approval of the Governor in Council, frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the Force, the places of residence, the classification, rank, distribution and particular service of the members thereof; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police Force as the said Inspector General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such Force efficient in the discharge of all its duties.

Inspector-General to Control Force and make rules.

10. The appointment of all Police officers shall, under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector-General of Police and the Deputy Superintendents, who may under such rules as aforesaid at any time dismiss, suspend, or fine to any amount not exceeding one month's pay any Police officer whom they shall think remiss, or negligent in the discharge of his duty, or otherwise unfit for the same.

Inspector General to appoint and dismiss.

11. Every person so appointed shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police Force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

Police officers to receive certificates of office.

FORM A.

A B has been appointed a member of the Police Force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police officer.

12. [*Repealed by Act X. of* 1869.]

13. It shall be lawful for the Inspector-General of Police, or any District Superintendent, if they shall think fit, on the application of any person showing the necessity thereof, to depute any additional number of Police officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the said Inspector-General or District Superintendent and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such

Additional Police officers employed at the cost of individuals.

deputation shall have been made, on giving one month's notice in writing to the Inspector-General or District Superintendent, to require that the officers so appointed shall be discontinued; such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Appointment of additional Force in the neighbourhood of Railway and other works.

14. Whenever any Railway, Canal, or other Public work shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police Force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the person employed upon such work, it shall be lawful for the Inspector-General, with the consent of the Governor in Council, to direct the employment of such additional Force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the Treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra Force so rendered necessary as aforesaid.

Payment of money for support of additional Police Force.

15. All monies paid in respect of such additional Force as is mentioned in the two last preceding sections, shall be paid into a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the Governor in Council may pass; and all sums of money payable under those sections shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Special Police officers.

16. When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or Village servants, or residents of the neighbourhood, as such Police officer may require to act as special Police officers for such time and in such manner as he shall deem necessary; and it shall be the duty of such Magistrate at once to comply with such applications.

Powers of special Police officers.

17. Every special Police officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities as the ordinary officers of Police.

18. If any person being appointed a special officer as aforesaid, shall without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty Rupees for such neglect, refusal or disobedience.

Refusal to serve.

19. No Police officer shall be at liberty to resign his office, or withdraw himself from the duties thereof unless expressly allowed to do so in writing by the District Superintendent, or unless he shall have given to his superior officer two month's notice in writing of his intention to do so. Nor shall any such Police officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Police officers not to resign without leave, or two months' notice.

20. From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police officer, who shall unlawfuly assume any function or power belonging to the Police; and who shall not forthwith deliver up his certificate, and all clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for the execution of his duty; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police Force, without being able to account satisfactorily for his possession thereof; or who shall put on the dress of any Police officer, or any dress designed to represent it, or to be taken for it; or who shall otherwise personate the character or act the part of any Police officer for any purpose whatever; shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred Rupees, or to imprisonment with or without hard labour, for a period not exceeding six months, or both.

Unlawful assumption of Police functions, personation of Police, &c.

21. Every Police officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a police officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences, and public nuisances, to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued to him.

Duties of Police officers.

22 to 43.—[*Repealed by the Code of Criminal Procedure.*]

Penalties for neglect of duty, &c.

44. Every Police officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under section 10 of this Act ; or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police duty ; or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual ; or who shall knowingly and wilfully and with evil intent exceed his powers ; or shall be guilty of any wilful and culpable neglect of duty in not bringing any person, who shall be in his custody without a warrant before a Magistrate as hereinbefore provided ; or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay or to imprisonment with or without hard labour not exceeding three months, or both.

Penalty for receiving unauthorized fees, &c.

45. Any Police officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance, or recompense other than he may be duly authorized by the Inspector-General or other officer acting under his order to collect or receive, shall on conviction before a Magistrate be liable to a penalty not exceeding six months' pay, or to imprisonment with or without hard labour not exceeding six months, or both.

Penalty for extortion, &c.

46. Any Police officer who shall directly or indirectly extort, exact, seek, or obtain any bribe or unauthorized reward or consideration, by any illegal threat, or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to Communicate ; or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable upon conviction before a Magistrate to a fine not exceeding twelve months' pay or to imprisonment with or without hard labour not exceeding twelve months or both. Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature to serious for his cognizance.

Penalty for obstructing a Police officer in the execution of his duty.

47. If any person shall assault or resist any Police officer in the execution of his duty ; or shall aid or incite any other person so to do ; or shall maliciously and without probable cause prefer any false or frivolous charge against any Police officer ; such person shall, on conviction of such offence before any Magistrate, be liable to a fine not exceed-

ing fifty Rupees, or to imprisonment with or without hard labour not exceeding three months, or both.

48. [*Repealed by M. Act III. of 1889, sec. 2 and sch.*]

Regulations of public procession, &c., and of carriages and persons at places of public resort.

49. The Superintendent and superior officers of Police may, as occasion requires, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which, and the times at which such processions may pass; keep order in the public roads, streets, thoroughfares, ghauts, and landing places, and all other places of public resort, and prevent obstructions on the occasion of such assemblies and processions and in the neighbourhood of places of worship during the time of public worship and in any case when the roads, streets, or thoroughfares, ghauts or landing places, may be thronged or may be liable to be obstructed; they may also regulate the use of music in the streets, on the occasion of native festivals and ceremonies; and may direct all crowds of twelve or more persons to disperse, when they have reason to apprehend any breach of the peace; and every person opposing, or not obeying, the orders so issued as aforesaid, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred Rupees. Provided always that nothing in this section contained shall be deemed to interfere with the general control of the Magistrate over such matters.

Licenses for use of music in streets.

Jurisdiction. Proviso.

50. In all cases of conviction under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict: provided always that such charges against Police officers above the rank of a Private shall only be adjudicated on by European functionaries, and that Village Watchers alone shall be liable to conviction by Heads of Villages.

Power to prosecute not affected. Proviso.

51. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act; or to prevent any person from being liable under any other Law, Regulation or Act, to any other or higher penalty or punishment than is provided for such offence by this Act. Provided always that no person shall be punished twice for the same offence.

Levy of fines.

52. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, believed by distress and sale of the goods and chattels of the offender by warrant of the Magistrate.*

* Portion repealed by Act XVI. of 1874.

Limitation of action.

53. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the General Police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof, shall be given to the defendant, or to the Superintendent or other superior officer of the District in which the act was committed one month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge, before whom the trial shall be, shall certify his approbation of the action: provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Proviso.

Plea that act was done under a warrant.

54. When any action, prosecution, or proceeding shall be brought against any Police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary unless the Court shall see reason to doubt its being genuine, provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Proviso.

Scope of Act.

55. This Act shall take effect in any and every such Districts as the Governor in Council shall appoint by Notification published in the Official Gazette.

Laws repealed.

56. The following words in Section 36, of Regulation IX, 1816; "The officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it and in the absence of the party the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party;" and Section 42 are repealed.

SCHEDULE.—[*Repealed by Act XIV. of 1870.*]

ACT NO. V. OF 1865.

PASSED ON THE 20TH OF APRIL 1865.

An Act to amend Act XXIV of 1859.

Preamble.

WHEREAS it is expedient to amend Act XXIV of 1859 by giving power to any Magistrate in any case in which he shall impose a fine under that Act, and, where such fine shall not be forthwith paid, to apprehend and to detain or to take security for the appearance of any offender so fined and not forthwith paying his fine until a return can be made to the Magistrate's warrant of distress; and whereas it is also expedient to lay down, with respect to offenders who are and who are not British subjects respectively, the course of procedure to be followed when no sufficient distress can be had.

It is hereby enacted :—

Forfeitures or penalties in case of non-payment thereof may be levied by distress and sale.

1. All forfeitures or penalties imposed under the authority of Act XXIV of 1859 for offences punishable by a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the property of offender within the limits of jurisdiction of the Magistrate of the district, by warrant under the hand of the Magistrate who made the order.

Offender may be detained in custody or compelled to give security, if fine, &c., be not forthwith paid.

2. In case any fine, forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

If no sufficient distress can be had, or there be not sufficient property whereupon the fine, &c., can be levied, the offender, if not European British subject, may be imprisoned.

3. If upon the return of such warrant it thall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months

when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

If an offender be a European British subject, facts to be recorded, and record transmitted to Civil Court.

4. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the Civil Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Act to be construed with Act XXIV of 1859.

5. This Act shall be read with, and be taken to be part of, Act XXIV of 1859.

M. ACT NO. III. OF 1882.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 28th August* 1882, *and of the Governor-General on the 5th September* 1882.]

An Act to provide that an increase to the General Police Force shall be occasionally made at the expense of the inhabitants of the Part of the country where such additional Police Force may be employed.

Preamble.

WHEREAS it is expedient to provide that an increase to the General Police Force shall be occasionally made at the expense of the inhabitants of the part of the country where such additional Police Force may be employed; it is hereby enacted as follows :—

Quartering of additional Police in disturbed or dangerous districts.

1. It shall be lawful for the Inspector-General of Police with the sanction of the Governor in Council, to be notified in the *Fort St. George Gazette*, and in such other manner as the Government may direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any town, village, street or in any part of the General Police District which shall be found to be in a disturbed or dangerous state, or in any part of the General Police District (as defined in Act XXIV of 1859) in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of Police. The inhabitants of the town, village, street or part of the country described in the Notification shall be charged with the cost of such additional Police Force, and the Magistrate of the District, after inquiry, if neces-

sary, shall assess the proportion in which the amount is to be paid by the inhabitants, according to his judgment of their respective means.

Recovery of moneys due.

2. All sums of money payable under the preceding section shall be recoverable, and such moneys when recovered, shall be credited and applied, in the manner provided by Section 15 of Act XXIV of 1859.

M. ACT NO. III. OF 1889.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 16th November* 1889 *and of the Governor-General on the 23rd December* 1889.

An Act to provide for the prevention and control of nuisances outside the Town of Madras.

Preamble.

WHEREAS it is expedient to amend Act XXIV of 1859 and to consolidate and improve the law relating to nuisances in places outside the Town of Madras : It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Towns Nuisances Act, 1889.

Local extent.

(2) Sections 1 and 2 of this Act extend to the whole of the Presidency of Fort St. George. The remaining sections extend to all towns in the said Presidency which may have been or may hereafter be declared to be Municipalities under Madras Act IV of 1884, or other Act of the same nature for the time being in force ; and the Governor in Council may from time to time by notification in the *Fort St. George Gazette* extend such sections or any part or parts thereof permanently or for a time or for specified occasions only, from such date as may be specified in the notification, to any other local area in the Presidency of Fort St. George, outside the limits of the Town of Madras, and may cancel or modify any such notification.

Enactments repealed.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column thereof.

Penalty for certain offences in public street.

3. Whoever in any public street, road, thoroughfare or place of public resort commits any of the following offences shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment of either description not exceeding eight days :—

Rash or negligent driving.

(1) Whoever drives or rides any animal, or drives, drags or pushes any vehicle, in a rash or negligent manner.

Causing obstruction by negligence in driving cattle.

(2) Whoever by negligence or illusuage in driving cattle causes any mischief or obstruction by such cattle.

Driving, &c., otherwise than on near or left side of the road.

(3) Whoever without reasonable excuse and so as to cause danger or obstruction to any person shall drive, drag or push any vehicle otherwise than on the near or left side of the road.

Leaving vehicle or cattle without due control.

(4) Whoever, being in charge of any vehicle or cattle, leaves it or them at such a distance as not to have the same under due control.

Obstructing thoroughfare.

(5) Whoever causes any vehicle to remain or stand longer than may be necessary for loading or unloading except at places appointed for the purpose, or fastens any horse or other animal so as to cause obstruction or in any way wilfully obstructs or causes obstruction to the free passage of any thoroughfare.

Exposing goods so as to cause obstruction.

(6) Whoever exposes goods for sale so as to cause obstruction.

Letting loose horses or ferocious dogs.

(7) Whoever negligently lets loose any horse or suffers any ferocious dog to be at large without a muzzle or sets on or urges any dog or other animal to attack, worry or put in fear any person or cattle.

Begging.

(8) Whoever, so as to cause annoyance, begs or applies for alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of extorting alms.

Depositing rubbish, stones, &c.

(9) Whoever without reasonable excuse throws or lays down any dirt, filth, rubbish, or any stones or building materials.

Gambling or cock-fighting in street.

(10) Whoever is found gaming with cards, dice, counters, money or other instruments of gaming or publicly fighting cocks or taking part in such gaming or cock-fighting.

Committing nuisance in street.

(11) Whoever wilfully and indecently exposes his person or commits a nuisance by easing himself, and whoever, having the care or custody of any child

under 7 years of age, omits to prevent such child from committing a nuisance as aforesaid.

(12) Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly or indecent behaviour.

Drunkenness, or riotous or indecent behaviour.

In case of conviction being had for an offence under clause (10) of this section, the instruments of gaming and money employed or displayed for the purposes of gaming shall be liable to forfeiture under orders of the Court.

Forfeiture of gaming instruments, &c.

4. Whoever neglects to fence in or protect any well, tank or other dangerous place or structure, or,

Neglecting to fence in well, tank, &c.

whoever causes any offensive matter to run from any house, factory, dunghcap or the like into the street—

Causing offensive matter to run from house, &c.

shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment of either description which may extend to one month.

5. Whoever cruelly beats, ill-treats, tortures, or drives, rides, or otherwise uses any animal in an unfit state to be so driven, ridden or used, or causes any animal to be cruelly beaten, ill-treated, tortured, or to be driven, ridden or used when unfit to be driven, ridden or used, shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment of either description not exceeding one month, or to both.

Penalty for cruelty to animals.

6. Whoever opens, keeps or uses or permits to be used any common gaming house, or conducts or assists in conducting the business of any common gaming house, or advances or furnishes any money for gaming therein, shall be liable on conviction to fine not exceeding five hundred rupees or to imprisonment of either description not exceeding three months, or to both.

Penalty for opening, &c., common gaming-house.

7. Whoever is found gaming or present for the purpose of gaming in a common gaming house shall on conviction be liable to fine not exceeding two hundred rupees or to imprisonment of either description not exceeding one month; and any person found in any common gambling house during any gaming or playing therein shall be presumed to have been there for the purpose of gaming.

Penalty for being found gaming in, common gaming-house.

8. Any Police officer may arrest without a warrant any person committing in his view any offence made punishable by this Act.

Police may arrest without warrant on view of offence.

Magistrate, &c., may grant authority to enter common gaming-house.

9. If any Magistrate, other than the Head of a village, or officer or Police not below the rank of Assistant Superintendent, has reason to believe that any enclosed place or building is used as a common gaming house, he may by an order in writing give authority to any Police officer above the rank of a constable to enter, with such assistance as may be found necessary, any such enclosed place or building, and to arrest all persons found therein and to seize all instruments of gaming and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein, and to search all parts of such enclosed place or building and also the persons found therein.

Destruction of stray dogs.

10. The District or Sub-divisional Magistrate may from time to time cause to be notified by beat of drum or otherwise that dogs found straying within certain limits will be destroyed, and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the District or Sub-Divisional Magistrate may from time to time direct.

Act to form part of General Police Act.

11. Sections 3 and 4 of this Act shall be read with, and form part of, Act XXIV of 1859.

SCHEDULE.

(REFERRED TO IN SECTION 2.)

Number and Year.	Subject.	Extent of Repeal.
Act XXIV of 1859.	Police.	Section 48.
Madras Act I of 1866.	Cantonments.	„ 13.
„ „ I of 1872.	Police.	The whole.
„ „ I of 1885.	Do.	Do.

M. ACT NO. I. OF 1881.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 29th January 1881 and of the Governor-General on the 12th March 1881.*]

An Act to provide for the maintenance of a special Police Force in the Ports of the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to make special provision for the security of the traffic between the shore and shipping in the ports of the Presidency of Fort St. George and to make the said traffic contribute towards the cost thereof; It is enacted as follows :—

Short title.

1. This Act may be called "The Madras Ports Police Act, 1881."

Scope of Act.

It shall take effect in such port or ports in the Presidency of Fort St. George and from such date as the Governor in Council may from time to time direct by Notification in the *Fort St. George Gazette.*

Additional charge on the hire of boats carrying goods.

2. To meet the expense of the Police Force, established under the provisions of Act XXIV of 1859 (An Act for the better regulation of the Police within the territories Subject to the Presidency of Fort St. George) and Madras Act VIII of 1867 (An Act to incorporate the Police of the Town of Madras with the General Police of the Madras Presidency, &c.,) which may be necessary for the purpose of this Act, the Governor in Council may, from time to time by Notification in the Fort St. George Gazette, fix such sum as may suffice at each port on an annual estimate to cover the cost of such special force to be charged and taken by the owner of every boat employed to convey goods to or from any ship or vessel in any port in the Presidency of Fort St. George in which this Act may take effect, in addition to the hire payable under Act IV of 1842 (for the better management of boats and catamarans in the Madras Roads and for the amendment of certain Harbour Regulations) or under Act IX of 1846 (An Act for authorizing the Government of Fort St. George to provide Regulations for the Several ports and places of anchorage within the territories subject thereto) or under any Act that may be hereafter enacted for the like purpose.

No goods to be conveyed unless boat be accompanied by a Police Officer.

3. No goods of any description shall be conveyed in any boat to or from any ship or vessel in any port in which this Act may take effect unless an officer of the Police Force is present on board such boat;

and it shall be the duty of the Commissioner or Superintendent of police to provide every such boat with an officer of the Police Force for such purpose.

Penalties for omission to carry Police Officer.

4. The owner of every boat and the tindal and boatmen for the time being employed in any boat in which any goods shall with the connivance of such boat-owner, tindal, or boatmen be conveyed to or from any ship or vessel in any port in which this Act may take effect without having an officer of the Police Force on board of such boat,

shall, on conviction before a Magistrate, be liable as follows:—

Every boat-owner, to a fine not exceeding fifty rupees ;

Every tindal to a fine not exceeding twenty rupees ;

Every boatmen to a fine not exceeding five rupees.

Penalties for obstruction or hindrance to Police Officer.

5. Every boat-owner, tindal, or boatman of any boat who shall hinder any such officer from proceeding on board such boat or shall obstruct him in the performance of his duty when in any such boat,

shall, on conviction before a Magistrate, be liable as follows :—

Every boat-owner to a fine not exceeding one hundred rupees ;

Every tindal to a fine not exceeding thirty rupees or to corporal punishment not exceeding fifty lashes with a cat o'-nine tails.

Every boatman to a fine not exceeding fifteen rupees or to corporal punishment not exceeding thirty lashes with a cat o'-nine tails ;

Owner to make weekly return of trips.

6. Every boat-owner shall on every Monday make or cause to be made.

to the Commissioner of Police,

or to the Superintendent of Police,

or to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same,

or to the Port Officer of any port in which this Act may take effect, if such Port officer shall be appointed to such duty by the Governor in Council,

a return in writing, signed by such boat-owner or his agent, of the number of trips made by each of his boats on each day during the preceding week.

Penalty for neglecting to make return and for making false return.

7. Every boat-owner who shall neglect to make the return required by section 6 shall, on conviction before a Magistrate, be liable for a first offence to a fine not exceeding fifty rupees, and for a second or any subsequent offence to a fine not exceeding one hundred rupees ;

and every boat-owner who shall knowingly make a false return shall be liable to a fine not exceeding three hundred rupees and to forfeiture of all licences which he may hold under the provisions of Act IV of 1842 or IX of 1846.

Boat-owner to pay to the Commissioner or Superintendent of Police the sums charged under this Act.

8. Every boat-owner shall on every Monday pay or cause to be paid,

to the said Commissioner of Police,

or to the Superintendent of Police,

or to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same,

or to the Port Officer of any port in which this Act may take effect, if such Port Officer shall be appointed to such duty by the Governor in Council,

the regulated sum as provided under section 2, for every trip made by any boat belonging to him employed in conveying goods, according to the weekly return made by him as hereinbefore directed ;

and in default of such payment, one or more of the boats of any boat-owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate until the amount so due by such boat-owner and the expenses of sale shall be realized ; and such amount when realized shall be forthwith paid to the said Commissioner or Superintendent of Police or other officer appointed as aforesaid. Any surplus arising from such sale shall, provided application be made within three months from the date of such sale, be paid to such boat-owner.

Procedure on default.

Moneys received under this Act to be paid into the public treasury.

9. All moneys paid to or received by the said Commissioner or Superintendent of Police, or other officer as aforesaid under this Act, shall be paid by such officer at least once a month into the public treasury.

Act not to apply to boats conveying only mails.

10. This Act shall not apply to any boat which shall convey mails exclusively to or from any ship or vessel in any port in which this Act may take effect.

Powers of Police Officers under the Act.

11. From and after the passing of this Act, it shall be lawful for all Police Officers appointed under Act XXIV of 1859, or Madras Act VIII of 1867, to exercise within the limits of any port in which this Act may take effect, all powers given to them by the said Acts, respectively.

Code of Criminal Procedure and Presidency Magistrates' Act to apply to punishments.

12. The provisions of the Code of Criminal Procedure and the Presidency Magistrates' Act shall apply to all fines and punishments awarded under this Act.

Power to apply Act to passenger boats.

13. The Governor in Council may from time to time by Notification in the *Fort St. George Gazette* apply the provisions of this Act to boats conveying

passengers to or from any vessel in all or any ports in which this Act take effect under section 1.

Government may withdraw ports from operation of Act.

14. It shall be competent to the Governor in Council of Fort St. George to withdraw from the operation of this Act, by Notification in the Official Gazette, any port or ports in which this Act may take effect.

Repeal of enactment.

15. Act [illegible] of 1858 is hereby repealed.

M. ACT NO. III. OF 1888.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 12th April and of the Governor-General on the 26th June* 1888.]

An Act to regulate the Police of the City of Madras.

Preamble.

WHEREAS it is expedient to amend and consolidate the provisions of the laws for regulating the Police of the City of Madras; It is enacted as follows:—

Short title.

1. (1) This Act may be cited as the Madras City Police Act, 1888.

Local extent.

(2) It extends to the whole of the City of Madras as defined in Section 3.

(3) It shall come into force at once.

Enactments repealed.

2. (1) The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column thereof.

Saving clause.

(2) But all appointments and rules made, jurisdiction and powers conferred, forms prescribed, certificates granted and notifications issued, under Madras Act XIII of 1867 or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, granted and issued under the Act.

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

"City of Madras."

"City of Madras" includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature of Madras.

"Commissioner."

"Commissioner" means the Commissioner of Police for Madras appointed under section 5.

"Conviction."

"Conviction" means the conviction of the accused person before a Presidency Magistrate.

"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code.

"Imprisonment."

"Common gaming-house" means any enclosure, room, or place, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using, or keeping such enclosure, room, or place, whether by way of charge for the use of instruments of gaming, or of the enclosure, room or place, or otherwise howsoever.

"Common gaming-house."

"Cattle" includes horned cattle, horses, asses, mules, sheep, goats, swine, camels and elephants.

"Cattle."

4. Nothing in this Act contained shall operate to deprive any person who, on the 1st day of September 1867, was a subscriber to the Town Police Superannuation Fund constituted under Act XIII of 1856 of any of the privileges which he would have had under sections 18 and 19 of that Act.

"Police Superannuation Fund."

5. The administration of the Police of the City of Madras shall be vested in an officer to be styled the Commissioner of Police for Madras, who shall from time to time be appointed by the Governor in Council of Fort St. George and may be removed by the same authority.

Appointment and removal of Commissioner of Police.

6. The Governor in Council may, from time to time, appoint one or more Deputies or Assistants to the Commissioner, who shall be competent to perform any of the duties or exercise any of the powers assigned to that officer as Commissioner under his orders. Any Deputy or Assistant Commissioner may be removed by order of the Governor in Council.

Appointment and removal of Deputies or Assistants to the Commissioner.

7. The Commissioner shall be virtue of his office be a Presidency Magistrate, but shall exercise his powers as Magistrate subject to such orders as may from time to time be issued by the Governor in Council, provided that he shall not exercise any powers under Chapters XVIII, XX, or XXI of the Code of Criminal Procedure, 1882.

Commissioner's powers as a Magistrate.

8. The Commissioner, his Deputies and Assistants, shall by virtue of their office be Justices of the Peace; but shall act as such only so far as may be necessary for the preservation of the peace, for the prevention of offences, for the detention of offenders, and for the performance of the duties assigned to the Commissioner by this Act.

Commissioner and his Deputies and Assistants to be Justices of the Peace.

9. For the City of Madras there shall be a Police Force which shall consist of such number of officers and men and shall be otherwise constituted in such manner as shall from time to time be ordered by the Governor in Council.

Constitution of Police Force.

10. The Commissioner may, from time to time, subject to the control of the Governor in Council, frame orders and regulations for the General Government of the Force.

Rules for the government of the Force to be made by the Commissioner subject to the control of Government.

11. The appointment of the members of the Force shall rest with the Commissioner, and he may at any time subject to the control of the Governor in Council, fine, suspend, reduce or dismiss any member thereof, provided that no fine shall exceed one month's pay.

Commissioner to appoint and may fine, suspend, reduce or dismiss members of the Force.

12. Every member of the Force shall receive on enrolment a certificate in the following Form under the signature of the Commissioner :—

Members of the Force to receive certificates of enrolment.

FORM.

A. B.—has been appointed a member of the Madras City Police Force and is invested with the powers, functions, and privileges of a Police officer.

By virtue of such certificate, he shall be vested with the powers, functions and privileges of a Police officer, and such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise ceases to be employed in the Force.

13. No member of the Force shall be at liberty to resign his office, or to withdraw himself from the duties thereof, without the written permission of the Commissioner or until after the expiry of two months from the date of his giving to the Commissioner a notice in writing of his intention to do so ; and every member of the Force, who shall so resign or withdraw himself, shall be liable, at the discretion of the Commissioner, to forfeit the whole or part of any arrears of pay then due to him ; and shall in addition be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding two months, or to both.

Members of Force not to resign without leave or notice.

14. Every member of the Force shall, on ceasing to belong thereto, forthwith deliver up the Commissioner or to such person and at such time and place as shall be directed by the Commissioner, his certificate and all clothing, accoutrements and other

Member ceasing to belong to the Force to deliver up certificate, clothing, accoutrements, &c.

articles supplied to him for the execution of his duty, and in default thereof shall be liable on conviction to fine not exceeding two hundred rupees or to imprisonment not exceeding six months, or to both. And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, and other articles which shall not be delivered up, wherever the same may be found.

Penalty for neglect or violation of duty.

15. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Force, besides being suspended or dismissed from his employment as hereinbefore provided, shall be liable on conviction to fine not exceeding Rs. 100 or to imprisonment not exceeding three months, or to both.

Police enrolled under Act XXIV of 1859 to have powers of Police in City of Madras.

16. Every Police officer appointed under the provisions of Act XXIV of 1859 may at any time be employed in the City of Madras, and whilst so employed shall have the same duties, powers and privileges and be subject to the same authority as Police officers appointed under this Act.

Appointment of special constables.

17. The Commissioner may, of his own authority, appoint any able-bodied male person between the ages of 18 and 56 to be a special constables to assist the Police Force on any temporary emergency.

Powers of special constables.

18. Every special constable so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, amenable to the same penalties, and subordinate to the same authorities, as the ordinary officers of police.

Penalty for special constable neglecting or refusing to serve.

19. If any person being appointed a special constable as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable on conviction to fine not exceeding fifty rupees.

Power to quarter additional Police in disturbed parts of the City.

20. It shall be lawful for the Commissioner with the sanction of the Governor in Council to be notified in the *Fort St. George Gazette* and in such other manner as the Government may direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any street or in any part of the City of Madras which shall be found to be in a disturbed or dangerous state, or in any part of the said city in which, from the conduct of the inhabitants, he may deem it

expedient to increase the number of police. The inhabitants of the street or part of the city described in the notification shall be charged with the cost of such additional Police, or with such part thereof as Government may direct, and the Commissioner shall assess the proportion in which the amount is to be paid by the inhabitants, according to his judgment of their respective means.

Appointment of addtional constables on application of private individuals.

21. On the application of any person, the Commissioner may appoint for such time as he shall think fit additional constables to keep the peace at any place within his jurisdiction at the charge of such person, but subject to the orders of the Commissioner. Provided that on the expiry of one month from the receipt of notice in writing from the applicant or his representative, the Commissioner shall discontinue such constables.

Recovery of moneys due.

22. All sums of money payable under the last two preceding sections shall recoverable by suit in any competent court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Duties of Police officers.

23. Every Police officer shall, for the purposes of this Act, be considered to be always on duty. He shall not engage without the written permission of the Commissioner in any duty other than his duties under this Act. It shall be his duty to use his best endeavours and ability to prevent offences and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to take charge of all unclaimed property; to seize and impound stray cattle; to collect and communicate intelligence affecting the public peace, and promptly to obey and execute all orders and warrants lawfully issued to him, and it shall be lawful for every Police officer, for any of the purposes mentioned in this section, without a warrant to enter and inspect any drinking shop, gaming house, or other place of resort of loose or disorderly characters.

Police officer may arrest without warrant on view of offence.

24. Any Police officer may arrest without warrant any person committing, in his view, any offence made punishable by this Act.

Apprehension of offenders by private individual.

25. Whoever commits an offence affecting the person or property of another, may, if his name and address be unknown, be apprehended by the person injured or in charge of the property concerned, or by any person acting in aid of such person, and may be detained until he give his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police officer.

Power to search for stolen property in certain cases without warrant.

26. Any Police officer above the rank of Constable having reasonable ground to suspect that stolen property is concealed or lodged in any dwelling-house or other place, and is likely to be removed before a search warrant can be obtained, may search such house or place subject to the general provisions in the Code of Criminal Procedure, 1882, relating to searches.

Seizure of property regarding which an offence is suspected.

27. Any Police officer may seize any property or thing which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence; and such seizure shall be forthwith reported to the Commissioner, who shall thereupon make such order respecting the custody or production of the property as he shall think proper.

Pawnbrokers, &c., to report stolen property if tendered for pawn or sale.

28. Any officer of Police may deliver to any pawnbroker, dealer in second-hand property, or worker in metals a list of any property believed to have been stolen, and thereupon it shall be the duty of such pawnbroker, dealer or worker as aforesaid, upon any article answering the description of any of the property set forth in any such list being offered him in pawn, for sale, or otherwise, to inquire the name and address of the party offering such article, to seize and detain the article, and forthwith to communicate to the nearest police station the fact of such article having been offered and such name and address as may be given by the party offering it. Any pawnbroker, dealer or worker as aforesaid failing to comply, with the requirements of this section without reasonable excuse, shall be liable on conviction to fine not exceeding fifty rupees for every such offence. Such pawnbroker, dealer or worker as aforesaid may also detain any person offering such article as aforesaid pending the arrival of the police.

Power to fix periods within which stray dogs may be killed.

29. The Commissioner may, by order in writing, to be affixed at the principal police stations and also to be published in some public newspaper, appoint from time to time, certain periods within which any dogs found straying and unmuzzled may be destroyed.

Power to take charge of and deliver to party entitled moveable property under 200 rupees in value of persons dying intestate.

30. Whenever any person dies intestate leaving moveable property within the City of Madras under two hundred rupees in value, such property may be taken charge of by the police, and it shall be lawful for the Commissioner to order the said property to be delivered, without requiring the production of any probate, letters of administration, certificate or other such conclusive evi-

dence of title and upon such terms as he may think fit, to any person who may appear to him to be entitled thereto ; and such delivery shall be a full discharge to the Commissioner, and to the Secretary of State for India, from all liability in respect of such property.

31. The provisions of sections 523, 524 and 525 of the Code of Criminal Procedure, 1882, shall, as may be practicable, apply to all property seized or taken charge of by the Police.

Commissioner to keep standard weights and measures.

32. The Commissioner shall keep in his office such standard weights and measures as may be from time to time prescribed or declared to be correct by the Governor in Council ; and weights and measures shall be held to be false when they do not agree with such standards ; and on conviction being had under Chapter XIII of the Indian Penal Code, the weights and measures which formed the subject matter of the charge shall be forfeited and destroyed.

Power of Police to enter shops to inspect weights, &c.

33. Any Police officer above the rank of constable may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing or measuring kept or used therein, and may seize any weight, measure or instrument for weighing or measuring which he may have reason to believe is false.

Places of public resort to be licensed.

34. No enclosed place or building having an area of five hundred square feet or upwards shall be used for public entertainment or resort without a license from the Commissioner.

Eating-houses, hotels, wine-shops, fencing schools, &c., to be licensed.

35. No enclosed place or building shall be used as an eating house, coffee-house, boarding-house, lodging house, hotel, tavern, wine, beer or spirit shop arrack or toddy shop, gymnasium or fencing school, or for the sale or consumption of any intoxicating drug or liquor, without a license from the Commissioner. Provided that nothing in this section shall apply to the sale in reasonable quantities of any drug or substance for medicinal purposes only, or to any gymnasium or fencing school of any educational institution controlled or recognized by the Governor in Council.

Conditions for issue of licenses under sections 34 and 35.

36. Licenses under the last two preceding sections may be granted by the Commissioner upon such conditions as he, subject to the control and direction of the Governor in Council, may prescribe, and for such period not exceeding one year as may be stated in the license. Provided that, in regard to any liquor or drug for the sale of which a license is required under any law for the time being in force for the

regulation of the Excise revenue, a license shall be granted by the Commissioner only to persons holding license under such law and shall have force only while such license subsists.

Penalty for omission to procure license as required by section 34 or 35.

37. Whoever keeps or uses or permits to be kept or used any enclosed place or building requiring a license under section 34 or 35 without having obtained a license as therein required, shall be liable on conviction to fine not exceeding fifty rupees for every day on which such place or building is so used.

Power to enter and inspect licensed places, and unlicensed places believed to be used contrary to the Act.

38. The Commissioner may, by order in writing, authorize any Police officer above the rank of constable, with such assistance as may be required, to enter and inspect any closed place or building licensed under section 36 at any time when it is open for the reception of persons resorting thereto, and may, after recording his reasons in writing, likewise authorize any such officer to enter and inspect any place not licensed which the Commissioner has reason to believe to be used contrary to the provisions of section 34 or 35.

Power to make rules for regulation of places of public entertainment.

39. The Commissioner may make rules for ensuring order and decency and for the public safety at all places of public entertainment or resort, and for regulating the times during which the places referred to in sections 34 and 35 shall be allowed to be open or used, and from time to time may rescind or alter such rules; and in case of breach of any such rules or of the conditions of a license granted under section 36, may order such places to be closed, and while such order is in force such places so ordered to be closed shall be deemed to be unlicensed places.

Service of copy of order on owner.

40. A copy of any order passed under the last preceding section shall be served on the owner, occupier or keeper of any such place as aforesaid, and if thereafter he does or permits any act in disobedience to such order, he shall be liable on conviction to imprisonment not exceeding three months or to fine, or to both.

Power to regulate processions in public streets, keep order, &c.

41. The Commissioner, or, subject to his orders, any Police officer above the rank of Head Constable, may, from time to time, as occasion may require, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares; prescribe the routes by which and the times at which such processions may pass; keep order in the public roads, streets, thoroughfares, landing places and all other places of public resort, and prevent obstructions on the occasion of such

assemblies and processions, and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, thoroughfares, landing places, or places of public resort may be thronged or liable to be obstructed; and may license and regulate the use of music in the streets; and the Commissioner may prohibit any assembly or procession if he considers such prohibition to be necessary for the preservation of the public peace or public safety; and every person opposing or not obeying any order issued as aforesaid or violating the conditions of any such license shall be liable on conviction to a fine not exceeding one hundred rupees.

Commissioner may grant warrant to enter common gaming-house.

42. If the Commissioner has reason to believe that any enclosed place or building is used as a common gaming-house, he may by his warrant give authority to any Police officer above the rank of a constable to enter, with such assistance as may be found necessary, by night or by day and by force if necessary any such enclosed place or building, and to arrest all persons found therein, and to seize all instruments of gaming and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein, and to search all parts of such enclosed place or building and also the persons found therein.

Cards, dice, &c., found in search under last section to be evidence that place is a common gaming-house.

43. Any cards, dice, gaming-table or cloth, board, or other instruments of gaming found in any enclosed place or building entered or searched, under the provisions of the last preceding section, or on any person found therein, shall be evidence that such enclosed place or building is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police officer or any of his assistants.

Proof of playing for stakes unnecessary.

44. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Penalty for opening, &c., a common gaming-house.

45. Whoever opens, keeps, or uses or permits to be used any common gaming-house, or conducts or assists in conducting the business of any common gaming-house, or advances or furnishes money for gaming therein, shall be liable on conviction to fine not exceeding five hundred rupees or to imprisonment not exceeding three months, or to both.

Penalty for being found gaming in a common gaming-house.

46. Whoever is found gaming or present for the purpose of gaming in a common gaming-house shall on conviction be liable to fine not exceeding two hundred rupees or to imprisonment not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Instruments of gaming may be ordered to be destroyed on conviction.

47. On conviction of any person for keeping a common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein may be destroyed by order of the Magistrate, and such Magistrate may order all or any of the other articles seized, or the proceeds thereof, to be forfeited.

Indemnification of witnesses.

48. Any person who shall have been concerned in gaming contrary to this Act and who shall be examined as a witness before Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Saving of games of skill.

49. Nothing in sections 42 to 48 of this Act shall be held to apply to games of mere skill wherever played.

Payment of portion of fine to informer or Police.

50. The Magistrate may direct any portion, not exceeding one-half of any fine which shall be levied under sections 45 and 46 of this Act, and of the moneys or proceeds of articles seized and ordered to be forfeited under section 47, to be paid to informers or Police officers who may have assisted in the detection of the offender.

Penalty for cheating at games.

51. Whoever by any fraud or unlawful device or malpractice in playing at or with cards, dice, or other game, or in bearing a part in the stakes, wagers or adventures, or in betting on the sides or hands of the players, or in wagering on the event of any game, sport, pastime, or exercise, wins from any other person for himself or for any other or others any sum of money or valuable thing, shall be deemed guilty of cheating punishable under section 417 of the Indian Penal Code.

Brothels.

52. If the Commissioner has reason to believe that a house is used as a common brothel, or lodging house for prostitutes, or disorderly persons of any description, he may summon the owner or tenant of the house, and on being satisfied that the house is so used and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it.

Penalty for cruelty to animals.

53. Whoever cruelly beats, ill-treats, or tortures any animal, or causes any animal to be cruelly beaten, ill-treated, or tortured, shall be liable on conviction to fine not exceeding one hundred rupees or to imprisonment not exceeding three months, or to both.

Appointment of infirmary for animals.

54. The Governor in Council may from time to time appoint places to be infirmaries for the care and treatment of animals in respect of which an offence has been committed under the last preceding section, and may nominate fit persons to give certificates of discharge from such infirmary.

Magistrate may order animal to be destroyed or sent to infirmary.

55. Upon conviction of an offence under section 53 of this Act, a Magistrate may after due inquiry order that the animal in respect of which the offence has been committed shall either be destroyed or be sent for care and treatment to an infirmary; and the Magistrate may by his order direct that the reasonable expenses of such care and treatment, or any portion thereof, shall be paid by the owner of such animal.

Animals sent to infirmary may be detained and shall be removed after notice.

56. Every animal so sent for treatment may be detained at the infirmary until its discharge is authorized by a person nominated under section 54; and thereupon the person in charge of the infirmary shall give notice to the owner of the animal, requiring him to pay any sum due under the order of the Magistrate on account of the care and treatment of the animal, and to remove it from the infirmary within forty-eight hours from the service of such notice.

In default of payment by owner of charges, &c., animal may be sold.

57. If the owner shall refuse or neglect to pay the sum due and to remove the animal within the time specified in section 56, any Magistrate may direct that the animal be sold, and that the proceeds, deducting costs of sale, be applied to the payment of the sum due. Any surplus shall, on application within two months from date of sale, be paid to the owner of the animal, and in default of such application shall be forfeited to Government, but the owner shall not be liable to make any payment in excess of the net proceeds of such sale.

58. Any Magistrate may, at any time and upon such terms as he thinks fit, direct that any animal detained under the provisions of section 55 of this Act shall be delivered to the owner thereof.

Magistrate may order delivery of animal to owner.

59. All costs of inquiries under section 55 of this Act shall be recoverable in the manner provided for the levying of fines from such persons connected with the enquiry as the Magistrate may direct.

Costs of inquiries.

60. It shall be lawful for all persons to seize any cattle found straying upon any road, street, or thoroughfare, or trespassing on any public or private grounds, and to confine such cattle in any bound appointed by the Commissioner, and if such cattle shall not be redeemed by the owners within ten days after being so impounded by paying to the person having charge of such pound the fee of eight annas for every goat, sheep, or pig, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to such daily rate as may from time to time be fixed by the Commissioner, such cattle shall be publicly sold, and the proceeds of such sale, after paying the said fee and the expenses of feeding, shall be paid to the owners thereof, or in default of their claiming such proceeds for the space of fifteen days after such sale, shall be credited to any fund applicable to police purposes.

Stray animals to be impounded.

61. On the occasion of a fire in the City of Madras, the Commissioner or any Police officer above the rank of constable may—

Powers of Police on the occasion as a fire.

(*a*) remove or order the removal of any persons who by their presence interfere with or impede the operations for extinguishing the fire or for saving life or property, and may close any street or passage in or near which any fire is burning ;

(*b*) by himself or those acting under his orders break into or through, or pull down, or use for the passage of horses or other appliances, any premises for the purpose of extinguishing the fire, doing as little damage as possible ;

(*c*) cause the mains and pipes of any district to be shut off so as to give greater pressure of water in the place where the fire has occurred ;

(*d*) call on the persons in charge of any fire-engine to render such assistance as may be possible ; and

(*e*) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of any fire brigade or by Police officers or their assistants in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire. But nothing in this section shall exempt any officer of Police or any member of any fire brigade from liability to damages on account of any acts done by him without reasonable cause.

Cost of establishments, &c., for extinguishing fire to be defrayed by the Municipality.

62. All charges on account of establishments and appliances for extinguishing fire maintained by the Police under the orders of the Governor in Council for general use, and all expenses incurred on the occasion of any fire by the Police in the execution of their duty, shall be paid by the Municipal Commissioners for the City of Madras upon the Commissioner certifying the amount thereof.

Penalty for wilful trespass.

63. Whoever without reasonable excuse wilfully enters into or an any dwelling-house or other building, or on any land or ground attached thereto, or on any boat or vessel, or on any ground belonging to the Governor in Council or appropriated to public purposes, shall be liable on conviction to fine not exceeding twenty rupees.

Penalty for being found armed between sunset and sunrise intending to commit an offence, &c.

64. Whoever is found between sunset and sunrise—

(1) armed with any dangerous instrument with intent to commit an offence, or

(2) having his face covered or otherwise disguised with intent to commit an offence, or

(3) in any dwelling-house or other building, or on board any vessel or boat, without being able satisfactorily to account for his presence there, or

(4) lying or loitering in any bazaar street, road, yard, thoroughfare, or other place, being a reputed thief and without being able to give a satisfactory account of himself, or

(5) having in his possession without lawful excuse any implement of house breaking, may be arrested by any Police officer without a warrant, and shall be liable on conviction to imprisonment for any term not exceeding three months.

Penalty for possession of property believed to have been stolen.

65. Whoever is found in possession or is proved to have been in possession of anything which there is reason to believe to be stolen property or property fraudulently obtained and for the possession

of which he fails satisfactorily to account, shall be liable on conviction to fine not exceeding one hundred rupees or to imprisonment not exceeding three months.

Penalty for buying or taking pledge from a child.

66. Whoever, without the knowledge and consent of the owner, buys any article from any child apparently under the age of fourteen years, or takes any article as a pawn, pledge or security for any sum of money lent or advanced to such child, shall be liable on conviction to fine not exceeding one hundred rupees.

Penalty for introducing spirits &c., into barracks or on board vessels of war.

67. Whoever introduces, or attempts to introduce, into Fort St. George or into any military barracks, guard-room, or encampment or on board any vessel of war belonging to Her Majesty any spirituous or fermented liquor or intoxicating drug or preparation, without the license in writing of the Commanding Officer and not intended for some person above the rank of non-commissioned officer, shall be liable on coviction to fine not exceeding one hundred rupees or to imprisonment not exceeding two months, and such liquor, drug, or preparation, and the vessels containing the same, shall be liable to be forfeited.

Penalty for introducing spirits, &c., into hospitals.

68. Whoever introduces or attempts to introduce, without due permission, into any public hospital any spirituous or fermented liquor or intoxicating drug or preparation, shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding two months.

Penalty for carrying weapon without authority.

69. Whoever, not being a soldier or sailor in the Army or Navy of the Queen or a Police officer or a member of a Volunteer corps, goes armed with any sword, spear, gun or other offensive weapon in any public place, unless by leave of the Commissioner, shall be liable to be disarmed by any Police officer, and the weapon so seized shall be forfeited to Government unless redeemed by payment of such fine not exceeding ten rupees as the Commissioner may impose.

Penalty for harbouring deserters for vessels.

70. Whoever wilfully harbours or conceals any seaman or apprentice belonging to any vessel knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable on conviction to fine not exceeding one hundred rupees.

Penalty for certain offences in public street.

71. Whoever, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment which may extend to one month :—

Rash or negligent driving.

i. Whoever drives or rides any animal, or drives, drags or pushes any vehicle in a rash or negligent manner.

Causing obstruction by negligence in driving cattle.

ii. Whoever by negligence or ill-usage in driving cattle causes any mischief or obstruction by such cattle.

Driving, &c., elephant or camel without Commissioner's permission.

iii. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner.

Driving, &c., without rights.

iv. Whoever drives, drags or pushes any vehicle at any time between half an hour after sunset and one hour before sunrise without a sufficient light, except when there may be sufficient moonlight to render such light unnecessary.

Driving &c., otherwise than on near or left side of road.

v. Whoever without reasonable cause shall drive, drag or push any vehicle, otherwise than on the near or left side of the road.

Driving, &c., vehicles without springs otherwise than on side of road.

vi. Whoever drives, drags or pushes any vehicle without springs on any road or street except on the side thereof.

Driving &c., animal or vehicle on foot-way.

vii. Whoever leads or rides any animal, or drives, drags, pushes any vehicle, upon any foot-way, or fastens any animal so that it can stand across or upon any foot-way.

Permitting cattle or vehicle to be under control of child.

viii. Whoever permits any cattle or vehicle to be under the control of a child under the age of twelve years.

Leaving vehicle or cattle without due control.

ix. Whoever, being in charge of any vehicle or cattle, leaves it or them at such a distance as not to have the same under due control.

Exposing for show animal or vehicle, making or repairing vehicle, or training horses except as allowed by Commissioner.

x. Whoever cleans or exposes for show, hire, or sale, any animal or vehicle, or makes or repairs any part of any vehicle except in cases of accident where repair on the spot is necessary, or trains or breaks any horse except in such places and at such times as may be allowed by the Commissioner.

Obstructing thoroughfare.

xi. Whoever causes any vehicle to remain or stand longer than may be necessary for loading or unloading, except at places appointed for the purpose by the Commissioner, or fastens any horse or other animal so as to cause

obstruction ; or in any way wilfully obstructs or causes obstruction to the free passage of any thoroughfare.

Letting loose horses or ferocious dogs.

xii. Whoever negligently lets loose any horse, or suffers any ferocious dog to be at large without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or cattle.

Conveying article which projects more than 5 feet.

xiii. Whoever conveys through the streets any article which projects more than five feet in front or behind the vehicle or vehicles on which it is placed.

Flying a kite, wantonly frightening horse, &c.

xiv. Whoever flies a kite or wantonly frightens any horse, or in driving, dragging or pushing any vehicle creates a noise reasonably calculated to cause danger to the persons using the thoroughfare.

Playing music, beating tom-tom, &c.

xv. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other instrument or utensil, or plays any music except at such times and places as shall be, from time to time, allowed by the Commissioner.

Affixing bills or defacing walls.

xvi. Whoever without the consent of the owner or occupier affixes or causes to be affixed any bill, notice, or other paper upon any building, wall or fence, or writes upon or defaces or marks any such building, wall or fence.

Bathing in public street or aqueduct.

xvii. Whoever bathes or washes himself or any other person, or any animal or clothing, except in a place set apart for such purpose.

Intruding on or fouling bathing place.

xviii. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing place by wilful intrusion, or by washing cattle or dogs at or near such place, or in any other way.

Using indecent or threatening language.

xix. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes or exhibits any indecent, threatening, abusive or insulting paper or drawing with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Soliciting for prostitution.

xx. Whoever solicits or molests any passenger for the purpose of prostitution.

xxi. Whoever begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of extorting alms.

Begging.

72. Whoever is found gaming with cards, dice, counters, money, or other instruments of gaming in any public street, place or thoroughfare, or publicly fighting cocks, or present as a spectator of such gaming or cock-fighting, shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding one month ; and such instruments of gaming and money shall be forfeited.

Penalty for gambling or cock-fighting in street.

73. Whoever in or by the side of or near to any public street, thoroughfare, or place or public resort, wilfully and indecently exposes his person, or commits a nuisance by easing himself, and whoever having the care or custody of any child under seven years of age omits to prevent such child from committing a nuisance as aforesaid, shall be liable on conviction to fine not exceeding fifty rupees.

Penalty for committing nuisance in street.

74. Whoever, except at such times and places as the Commissioner may allow, in or near any street, road or thoroughfare lights any bonfire, sets fire to or burns any straw or other matter, discharges any firearm or air-gun, lets off or discharges any fireworks, or sends up any fire-balloon, or permits such act to be done in premises over which he has control, shall be liable on conviction to fine not exceeding fifty rupees. In the event of any such act being done within any private premises, the person having the immediate control of such premises shall be deemed to have permitted the act, unless he can prove that the act was committed without his knowledge.

Penalty for lighting bonfire, burning straw, discharging fire-arms, &c., in or near any street.

75. Whoever is found drunk and incapable of taking care of himself, is guilty of any riotous, disorderly or indecent behaviour in any street or thoroughfare, in any place of public amusement or resort, or on board any passenger boat or vessel, and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police court, office, or station, shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

Penalty for drunkenness or riotous or indecent behaviour in street, &c.

76. For any breach of any of the conditions of a license granted under this Act the offenders shall be liable on conviction to fine not exceeding one hundred

Penalty for breach of conditions of licenses.

rupees, and such fine may be recovered from the person licensed notwithstanding that such breach may have been owing to the default or carelessness of his servant or agent in charge of the shop or place. Any person so convicted shall also be liable to the forfeiture of his license at the discretion of the Commissioner.

Fee for license

77. For every license or permission granted under this Act, the Commissioner may levy such fee not exceeding two rupees as may from time to time be fixed by the Governor in Council.

Powers to make bye-laws.

78. The Governor in Council may make bye-laws consistent with this Act for more effectually carrying out the objects thereof and for the preservation of order, and may from time to time repeal, alter or amend any such bye-law.

Bye-laws to be published in English and vernacular.

79. Every bye law shall be published in the *Fort St. George Gazette* in English, Tamil, Telugu, and Hindustani; and no bye-law shall have effect until the expiration of one month from the date of its first publication in the *Fort St. George Gazette*.

Penalty for breach of bye law.

80. For any breach of any such bye law the offender shall be liable on conviction to fine not exceeding ten rupees or to imprisonment not exceeding one week.

Limitation of actions

81. On account of anything done under the provisions of this Act, no action shall be brought after the expiration of six months, and no prosecution shall be instituted after the expiration of three months, from the date on which the act complained of shall have been committed. And no action shall lie in respect of any act on account of which a criminal prosecution has been instituted and failed.

Saving of penalty provided by other law.

82. Nothing in this Act contained shall be construed to prevent any person from being liable under any other law to any other or higher punishment than is provided by this Act; provided that no person shall be punished twice for the same offence.

SCHEDULE.

(*Referred to in Section 2.*)

ENACTMENT REPEALED.

Number and Year.	Subject.	Extent of Repeal.
(Madras) III of 1862.	Police bye-laws.	The whole.
(Madras) VIII of 1867.	Police.	The whole.
(Madras) IV of 1879.	Police.	The whole.
(Madras) I of 1884.	Municipal.	Section 318.

REGULATION XI. OF 1816.

PASSED ON THE 13TH SEPTEMBER 1816.

A Regulation for the establishment of a general System of Police throughout the Territories subject to the Government of Fort St. George.

Preamble.

1. It being expedient that a system of police, founded chiefly upon the ancient usages of the country, should be established throughout the territories subject to the Government of Fort St. George, and that the powers and authorities of the several classes of persons to be entrusted with the performance of police duties should be defined, the Right Honourable the Governor in Council has been pleased to enact the following rules.

2—7. [*Repealed by Act XVII. of* 1862.]

Heads of villages to communicate to each other information on subjects connected with the peace of their respective villages.

8. Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

Heads of villages to report to the police officer of the district the arrival of suspicious persons in their respective villages.

9. Heads of villages shall report to the police officer of the district the arrival in their villages of stangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

10. *First.*—In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties or if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry for a time not exceeding twelve hours; or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishment, to order them to be put in the stocks for a time not exceeding six hours.

Heads of villages authorized to inflict punishment in certain cases.

Limitation of punishment.

Second.—Heads of villages shall report to the police officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first clause of this section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

Heads of villages to report to the police officer of the district all cases wherein they have inflicted punishment.

11. *First.*—Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made, and the property, if found, to be secured and forwarded with the offender to the Police officer of the district. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

Heads of villages how to proceed on receiving information of stolen property.

12. [*Repealed by Act III. of* 1857.]

13. *First.*—The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot with the kurnum and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of the body and its appearance when discovered, or regarding the murder of deceased, if the body should have been deprived of life by murder.

Heads of villages how to proceed on the discovery of dead bodies.

Second.—The head of the village, on receiving information of the discovery, shall also, without delay, send notice of it to the police officer of the district, and if the police officer shall arrive at the spot in time to enquire into the circumstances under which the body may have been discovered, the enquiry shall be conducted under his superintendence.

Heads of villages to send notice of the discovery of dead bodies to the police officer of the district.

Third.—If the police officer should not appear to conduct the inquiry, the head of the village shall cause the kurnum to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and having procured it to be attested by two or more of the inhabitants who may be present at the investigation and by the kurnum, he shall forward it to the police officer of the district with the evidence he may have taken.

Heads of villages how to proceed if the police officer should not appear to conduct the inquiry.

14. Kurnums shall keep registers of persons confined by the heads of villages under Section 10 of the Regulation, and these registers shall be transmitted monthly by the heads of villages to the police officers of their respective districts, to be forwarded to the Magistrate.

Registers of persons confined by heads of villages to be kept by kurnums, and transmitted monthly to the police officer of the district.

[Form of register.]—Rescinded by Sec. 2, Regulation IX. 1828.

15—46. [*Repealed by Act XVII. of* 1862.]

47. The Magistrate shall be charged with the maintenance of the peace within their respective Zillahs, and whenever their establishments may be insufficient to resist banditti or other disturbers of the public peace, they shall apply for assistance to the nearest military station, *as directed in Section* 10, *Regulation* III., 1810.

Magistrate charged with the maintenance of the peace of their districts.

48—56. [*Repealed by Act XVII. of* 1862.]

REGULATION IV. OF 1821.

1—5. [*Repealed by Act XVII of* 1862.]

6. *First.*—The powers granted to heads of villages under clause *first*, Section 10, Regulation XI of 1816, to punish trivial offences, are hereby extended, under the rules and limitations therein specified, to the punishment of petty *thefts*, not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one Madras rupee.

Heads of villages authorized to punish petty thefts not exceeding one rupee.

Second.—Heads of villages shall report to the head of police officer of the district all cases in which they shall have exercised the power of punishment granted to them by clause *first* of this section.

Such punishment to be reported to the head of District Police.

REGULATION I. OF 1816.

PASSED ON THE 12TH JANUARY 1816.

A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police appropriable to the support of the new Police established, or to be established, in that Province; and for regulating the collection and assessment of those contributions.*

Preamble.

WHEREAS it has been deemed expedient to abolish the Kavali system in the Province of Tanjore, and to establish a more efficient system of police for that Province; and whereas it has become necessary, in consequence, that the funds hitherto allotted for the support of the Kavali system should be declared appropriable, under the orders of the Governor in Council, to the maintenance of the new establishments of police; and whereas those funds, derived from certain proportions of the annual gross produce of cultivated lands, whether malguzari or lakiraj, from certain allotments of lands rent free or favourably assessed, from* the contributions termed porupu and magamai, and other taxes of various descriptions, have never been regulated by public authority, but have been partially collected, and their collection has been attended with much inconvenience, irregularity and trouble; and whereas it is expedient that* provision should be made for collecting such sums as may be due in arrear to the police-fund, according to the rules which have been heretofore adopted by the Collectors of the land-revenue under the sanction of the Board of Revenue; therefore, with a view to provide for the equalization and due collection of the said funds, and to render them appropriable to the support of the new police-establishments in Tanjore, the Governor in Council has been pleased to enact the following Regulation to take effect from the date of its being promulgated.

Contributions on account of police appropriable to support of new police.

2. The contributions and allowances of every description, whether in money, grain or land, which have hitherto been allotted for the support of the Kavali system of police in the Province of Tanjore, are hereby declared to be resumed, and to be appropriable, under such orders as the Governor in Council may be pleased to issue, to the maintenance of the new establishment of police in that Province.

Collections from malguzari lands.

3. *First.*—The contributions from malguzari lands hitherto levied for the Kavali establishments, under the denomination of Kavali svatantrams, shall continue to be collected. The annual amount of such contributions, to be

* Certain words in the title and preamble, relating to the house-tax, have been omitted as obsolete.

assessed on each village respectively, shall be the average of Kavali svatantrams paid or payable by each village in the six years from Fasli 1214 to Fasli 1219, inclusive. The contributions above mentioned shall be paid by the mirasidars or renters into the public treasury at the time and in the manner which may be established for the payment of the land-revenue.

Second.—The amount of contribution to be paid in lieu of Kavali svatantaram by villages which were under management during the period mentioned in the preceding clause, or during any part thereof, shall be collected at the established centage on the actual amount of the produce of such village.

Assessment on villages under amani between Faslis 1214 and 1219,

Third.—In villages which now are or shall hereafter come under management, the Collector shall levy the contributions to be raised on account of Kavali svatantram from the actual produce of such villages in grain at the established rates, and shall realize the same into the public treasury, in like manner as the land-revenue of those villages.

and upon villages now or hereafter under amani.

4. The allowances and contributions hitherto paid to the Kavalgars by the holders of land wholly or partly alienated shall cease, and in lieu thereof there shall be annually levied from the holders of such lands a contribution in money at the same rate per veli, as, under the provisions of clause first, section 3 of this Regulation, is to be collected from the holders of the neighbouring malguzari lands of similar description and quality.

Contributions to be levied on account of police from lands wholly or partly alienated.

5. *Rules regarding assessment of house-tax. Rep. by Act XVIII of* 1861.

6. *First.*—The Collector of the land-revenue shall continue to levy and receive the svatantram assessment.* All arrears of such contributions as are established by this Regulation shall be recoverable by distraint of personal property, in the same way and under the same process as arrears of the land-revenue.

Contributions by whom to be levied.
Recovery of arrears.

Second.—All arrears which may be due to the police-fund under the former usages of the Province of Tanjore, or under the orders of the Board of Revenue and of the Governor in Council, shall, in like manner, be recoverable by distraint of personal property in the mode prescribed by the Regulations for the recovery of arrears of revenue.

Recovery of arrears now due under usage of Province of orders of Board and of Government.

* Certain words, repealed by Act XVIII of 1861, sec. 1, have been omitted.

CANTONMENTS.

ACT NO. XIII. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH OCTOBER 1889.

An Act to amend the law relating to Cantonments.

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

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma ; and

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

Repeal.

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof :

(2) But all orders, declarations, rules, and regulations made, directions, licenses, and permits given, taxes imposed, and notifications published under any enactment repealed by this Act and all limits defined as the local limits of a cantonment with the approval of the Governor-General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectivly made, given, imposed, and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras, or Bombay Code respecting the fixing of the local limits of cantonments and military bazaars, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Interpretation.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(*a*) " officer " means—

(i) a person who, being an officer within the meaning of the

Army Act,* is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act, or as an officer doing such duty in any arm, branch, or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act :*

(*b*) "soldier" means a person who is a soldier of Her Majesty's regular forces, within the meaning of the Army Act,* and is not an officer within the meaning of this Act :

(*c*) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act :

(*d*) "intoxicating drug" means opium, ganja, bhang, charas, and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act : and

(*e*) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 & 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor-General in Council.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

Definition of Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for

* The figures "1881" have been repealed by Act XII. of 1891.

the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

Cantonment Authorities and Magistrates.

Cantonment authority and Magistrate.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

Cantonment authority.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee, or, in the case of a cantonment for which such a committee has not been constituted the, commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, "*the Cattle-trespass Act*, 1871,"* the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.

Cantonment Magistrate.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

Appointment of Cantonment Magistrate as Judge of Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of 500 rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

* In sec. 6, sub-sec. (3), the words and figures quoted have been substituted for the words and figures, "Act XVIII. of 1883 (*to amend the Cattle trespass Act, 1871*)."—See Act I. of 1891.

Appointment of Additional Judge of Cantonment Court of Small Causes.

9. When the Local Government appoints an additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of 50 rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

Judges of existing Cantonment Courts of Small Causes.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act, and of which the value does not exceed, in the case of a Cantonment Magistrate, 500 rupees and, in the case of an Assistant Cantonment Magistrate, 50 rupees.

Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases, notwithstanding reduction of jurisdiction of Judge.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV. of 1859 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)*, or Act V. of 1861 *(for the regulation of Police)*, or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V. of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law, or any person subject to military law otherwise than as an officer or soldier knowingly barters, sells, or supplies, or offers or attempts to barter, sell, or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he shall be punished with fine which may extend to one-hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Unauthorised possession of spiritious liquor.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(*a*) any person subject to military law otherwise than as an officer or soldier, or

(*b*) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the Government or for the private use of an officer, more than one quart of any spirituous liquor other than fermented malt liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months.

Arrest of persons, and seizure and confiscation of things for offences against the two last foregoing sections.

15. (1) Any police-officer may, without an order from a Magistrate, and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII. of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2), and not confiscated under sub-section (3), shall be restored to the person from whom it was taken.

Saving of article sold or supplied for medicinal purposes.

16. The foregoing provisions of this chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist, or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

General power of taxation.

17. (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette,—

(*a*) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(*b*) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

Extension of Act XX. of 1856 to certain cantonments.

18. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chaukidars in*

Cities, Towns, Stations, Suburbs and Bazars, in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality, and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX. of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

Restriction of power of taxation in cantonments in which Act XX. of 1856 is in force.

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, "shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act."*

Power to prohibit or exempt from taxation.

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor-General in Council may, by notification in the *Gazette of India*, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office, or any class of persons, or any property, or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund.

Cantonment fund.

21. (1) There shall be formed for every cantonment which is not included in a munici-

* In sec. 19 the words quoted have been substituted for the words, "shall not be imposed under section 17 of this Act in the cantonments," by Act XII. of 1891.

pality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely :—

(*a*) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861, or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council, or by the Governor of Bombay in Council, or against the provisions of Chapter XIII. of Chapter XIV. of the Indian Penal Code, or of section 156 of the Army Act ;*

(*b*) the proceeds of taxes imposed under section 17 or levied under Act XX. of 1856 in the cantonment ; and

(*c*) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police force employed in the cantonment and to the other purposes of this Act within the cantonment, and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment, or of any military force ordinarily quartered therein, or of any detachment of any such force.

Custody of cantonment fund.

22. (1) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

Vesting and management of cantonment fund.

23. The cantonment fund shall be vested in Her Majesty, and subject to the provisions of this Act and of the rules thereunder and to the control of the

* The figures "1881" have been repealed by Act XII. of 1891.

Local Government, the management of the fund shall be entrusted to the cantonment authority.

Acquisition of immoveable property at cost of cantonment fund.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Extension of enactments to cantonments.

25. The Governor-General in Council may, by notification in the *Gazette of India*, extend to all cantonments, or to any cantonment, or to any part of any cantonment, any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

Matters respecting which rules may be made.

26. The Governor-General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely :—

(1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made ;

(2) the conditions to be annexed to every such permission given in pursuance of such an application ;

(3) the preparation and maintenance of registers of immoveable property in cantonments ;

(4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees ;

(5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government, ceased to exist, or for any reason cannot be convened ;

(6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment ;

(7) the purposes to which the cantonment fund may be applied ;

(8) the authority on which money may be paid from the cantonment fund ;

(9) the investment of any balance of that fund ;

(10) the execution of contracts by, or on behalf of, the cantonment authority ;

(11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published ;

(12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor-General in Council, been made under section 25 ;

(13) the requisitions which may be made on persons having the control of sewers, drains, latrines, or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions ;

(14) the prevention of the overcrowding of buildings and places in a cantonment ;

(15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges, and other fences ;

(16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping, and trimming of trees on such lands ;

(17) the regulation of encamping-grounds, sarais, markets, and slaughter-houses, of traffic on roads, and of processions and public assemblies ;

(18) the use and management of burial and burning-grounds ;

(19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs, or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof ;

(20) the parts of a cantonment in which persons practising any profession, or carrying on any trade, calling, or occupation, may be required to reside for the purpose of practising the profession, or carrying on the trade, calling, or occupation, and the conditions, if any, to be observed by such persons ;

(21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease ;

(22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or supposed to be suffering from any infectious or contagious disease ;

(23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly, persons, of persons who have been convicted of any offence against Chapter XVII. of the Indian Penal Code or section 156 of the Army Act,* or have been ordered under the Code of

* The figures "1881" have been repealed by Act XII of 1891.

iminal Procedure, 1882, to execute a bond for their good behaviour,
d of persons whom the commanding officer deems it expedient to
clude from the cantonment with or without assigning any reason for
excluding them therefrom ;

(24) the prevention of cruelty to animals and the care of animals hile grazing ;

(25). the prevention and extinction of fires ;

(26) the registration of births and deaths ;

(27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act, or any enactment extended or rule made thereunder ;

(28) the powers of inspection, entry, and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences ;

(29) the mode in which summonses, notices, requisitions, and other documents are to be served on the persons to whom they are addressed ;

(30) the cases, authorities, and conditions in, to, and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from ; and,

(31) generally, the carrying out of the purposes of this Act.

Supplemental provisions respecting rules.

27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the *Gazette of India* and in such other manner as the Governor-General in Council prescribes.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor-General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor-General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may

extend to five rupees for every day after the first during which the breach continues.

Extension of certain enactment and rules to places beyond cantonments.

28. The Local Government may, by notification in the official Gazette, and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

(*a*) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or

(*b*) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub section (4) of section 27 ;

and the enactment, rule, or direction specified in the notification, shall, so long as the notification remains uncancelled, apply to that area as if the area were included in the cantonment.

Inapplicability of section 555, Act X., 1882, to trails of offences against this Act.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee, or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

Cantonments in presidency-towns.

30. Where a cantonment is situated within the limits of a presidency town, the functions assigned to any authority by this Act or any enactment extened or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

Protection of cantonment authority, Magistrate and commanding officer.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate, or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate, or officer, whether the thing done was or was not authorized by the powers so conferred.

Registration.

32. (1) Section 54, paragraphs two and three, and sections 59, 107, and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II. as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

Limitation of the operation of this Act.

33. The Governor-General in Council may, by notification in the *Gazette of India*, exclude from the operation of this Act the whole or any part of the whole or any part of any cantonment.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor-General in Council.		
Act XVIII. of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV. of 1854 ...	Sentences of superintendents of bazaars.	The whole, so far as it has not been repealed.
Act XLV. of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in *Explanation* 1, to section 193.
Act V. of 1869 ...	Indian Articles of War.	Part III., clause (*c*): and for the last twenty-seven words of Part I., clause (*f*), the following shall be substituted, namely:—"and officers in charge of the police in cantonments are defined and controlled."
Act VII. of 1870...	Court-fees Act, 1870.	Section 19, clause iv., and in Schedule II., article 1, clause (*a*), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III. of 1859."

THE SCHEDULE.—(*continued.*)

ENACTMENTS REPEALED—(*continued.*)

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XV. of 1874 ...	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832 : so much of the third schedule as relates to sections 18, 19, 20, 45, 46, and 47 of Bombay Regulation XXII of 1827 : and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX. of 1875...	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII. of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.
Act III. of 1877 ...	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "whenever" and ending with the word "thereof."
Act XIV. of 1879...	Hackney - Carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor-General in Council may" down to and inclusive of the words "in which British troops are cantoned."
Act III. of 1880...	Cantonments Act, 1880.	So much as has not been repealed.
Act XXII. of 1881...	Excise Act, 1881.	The proviso to section 53.
Act X. of 1882 ...	Code of Criminal Procedure, 1882.	Clause (*b*) of section 1.
Act XIV. of 1882...	Code of Civil Procedure.	Section 6, clause (*a*), the words "an officer or" in section 468, and the whole of section 469.

THE SCHEDULE.—(*continued.*)

ENACTMENTS REPEALED—(*continued.*)

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XX. of 1886 ...	Upper Burma Laws Act, 1886.	In the first Part of the Second Schedule the words and figures "III. of 1880, Cantonments."
Regulation of the Bengal Code.		
Regulation XX. of 1810.	Military bazaars.	So much as has not been repealed.
Regulation of the Bombay Code.		
Regulation XXII. of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42, and 43.
Acts of the Governor of Fort St. George in Council.		
Act IV. of 1865 ...	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I. of 1866 ...	Madras Cantonments.	So much as has not been repealed.
Act of the Governor of Bombay in Council.		
Act III. of 1867 ...	Bombay Cantonment Act of 1867.	So much as has not been repealed.
Act of the Lieutenant-Governor of Bengal in Council.		
Act VII. of 1878...	Bengal Excise Act, 1878.	The proviso to section. 81.
Regulation under the Statute 33 Victoria, Chapter 3.		
Act III. of 1877 ...	Ajmere Laws Regulation, 1877.	Section 39, and so much as relates to Bengal Regulation XX. of 1810.

NOTES UNDER THE CANTONMENTS ACT.

Act XXI. of 1879, sec. 8 (which corresponds with sec. 8 of Act XI. of 1872, now repealed), extends to all British subjects, European or Native, in Native States in alliance with Her Majesty, the law relating to offences and Criminal Procedure for the time being in British India. The Code of Criminal Procedure (Act X. of 1882), with the amendments introduced by Act III. of 1884, is thus, by virtue of that section, applicable to such British subjects, Native or European. The High Court of Bombay having been vested by the notification of the Governor-General of India in Council, No. 178 of 23rd September 1874, with original and appellate criminal jurisdiction over European British subjects, being Christians, resident, amongst other places, at Secunderabad, outside the Presidency of Bombay, and within the territories of His Highness the Nizam of Hyderabad, the Cantonment Magistrate of Secunderabad, in his character of a District Magistrate, is subordinate to the High Court in criminal matters relating to Christian European British subjects in Hyderabad within the contemplation of sec. 526 of the Code of Criminal Procedure (Act X. of 1882, as amended by Act II. of 1884, sec. 11) : and the High Court possesses, by virtue of the appellate jurisdiction so vested in it, the power of transferring a criminal case pending in the Cantonment Magistrate's Court either to itself or to any Criminal Court of equal or superior jurisdiction. The High Court, by an order under sec. 526 of the Criminal Procedure Code (Act X. of 1882), transferred the present case of defamation from the Court of the Cantonment Magistrate at Secunderabad to the High Court for trial, on the ground that no machinery for a trial by jury existed at Secunderabad.—I. L. R., 9 Bom. 333.

A sub-conductor in the Commissariat Department is not a "soldier" within the meaning of sec. 14 of Act III of 1880 ; and consequently the sale of spirituous liquor to the wife of such a person without the license required by that section is not an offence against that section.—3 Al. 214.

"Tari" or "toddy" is "spirituous liquor" within the meaning of sec. 14 of Act III. of 1880. The words "spirituous liquor," "wine," and "intoxicating drugs" in that section, must be taken in their popular and ordinary meaning. A Cantonment Magistrate in his judicial capacity has no authority to cancel a license. The power to cancel licenses belongs to the revenue authorities.—15 Cal. 452.

STAGE CARRIAGES.

ACT NO. XVI. OF 1861.

RECEIVED THE G.-G.'S ASSENT ON THE 7TH JULY 1861.

*An Act for licensing and regulating Stage Carriages.**

Preamble.

WHEREAS it is expedient to license and to regulate stage-carriages in British India; It is enacted as follows :—

Definition of stage-carriage.

1. Every carriage drawn by one or more horses,† which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall, without regard to the form or construction of such carriage, be deemed to be a stage-carriage within the meaning of this Act :

Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles.

Carriages to be licensed.

2. No carriage shall be used as a stage-carriage unless licensed by a Magistrate† or by the Chief Commissioner of Police of a Presidency-town.

Power to refuse license.

3. The Magistrate or Chief Commissioner of Police to whom the application for a license of a stage-carriage is made may refuse to license the same, if he shall be of opinion that such stage-carriage is unserviceable, or is unsafe or unfit for public accommodation or use.

Particulars of license.

If a Magistrate or Chief Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the stage carriage, the place at which his head-office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charge for, and duration of, license.

4. For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees, and such license shall be in force for one year from the date thereof.

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* See 2 & 3 Wm. IV., c. 120; 3 & 4 Wm. IV., c. 48; 5 & 6 Vic., c. 79; 10 & 11 Vic., c. 42; 11 & 12 Vic., c. 118, sec. 2. Act XVI. of 1861 applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject (see Act XVI. of 1876 sec. 2.) Bombay Act VI. of 1863 is the enactment which regulates public conveyances in the town of Bombay.

† See sec. 21, *infra*.

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year; and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Particulars to be painted on conspicuous part of carriage.

5. On any stage-carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage.

Penalty for letting carriage without having particulars painted.

6. The proprietor of any licensed stage-carriage, who shall let such stage-carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

Penalty for letting for hire unlicensed carriage.

7. Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees.

Penalty for allowing carriage to be drawn by fewer animals, or more passengers, &c., to be carried than provided by license.

8. Any proprietor, or agent of a proprietor, or any driver of a licensed stage-carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage, to be carried by such stage-carriage than shall be provided by the license, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees.

In every case where such stage-carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution, and had made reasonable provision, to prevent the commission of the offence.

Penalty for ill-treating animals.

9. Any person who shall cruelly beat, ill-treat, over-drive, abuse torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tor

tured, any horse employed in drawing or harnessed to, any stage-carriage, or who shall harness to or drive in any stage-carriage any horse which, from sickness, age, wounds, or other cause, is unfit to be driven in such stage-carriage, shall, for every such offence, be liable to a fine not exceeding one hundred rupees.

Revocation of license.

10. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any stage-carriage shall ply, or who has granted the license of any stage-carriage, may cancel the license of such stage-carriage, if it shall appear to him that such stage-carriage, or any horse or any harness used with such carriage, is unserviceable or unsafe, or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of section 5.

11. In any station or place in which a Magistrate shall reside and be, any police-officer may, in any place within two miles of the office of such Magistrate, seize any stage-carriage with the horse harnessed thereto, if the full particulars of the license of such stage-carriage be not distinctly painted on such stage-carriage in the manner provided in section 5 of this Act.

Such carriage, with the horse harnessed thereto, shall be taken without delay by such police-officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such police-officer; and if, thereupon, any fine is imposed by such Magistrate, and such fine is paid, such stage-carriage and horse shall be immediately released; and, if such fine be not paid, such stage-carriage and horse may be detained for twenty days as security for the payment thereof; and, if the fine be not sooner paid, they may be sold, and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse; and, if such surplus be not claimed within a [illegible]ther period of two months from such sale, the same shall be forfeited su[illegible]he State.

If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

Penalty for misconduct on part of drivers.

12. If any driver of any stage-carriage, or any other person having the care thereof, shall, through intoxication; neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such stage-carriage or of any other person, every such per

son so offending shall be liable to a fine not exceeding one hundred rupees.

Penalty when recoverable from proprietor.

13. Whenever the driver of any stage-carriage, or the owner of any horse employed in drawing any stage-carriage, shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in section 8, and such driver or owner shall not be known, or, being known, cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed.

Proviso.

Provided that, if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Issue of summons.

14. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a stage-carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter-post, which shall be deemed to be good service thereof.

The letter shall be registered at the post-office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case.

The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

Adjudication of penalties.

15. All penalties incurred under this Act shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

16. All penalties imposed under this Act, or any balance of any fine, costs, or charges as mentioned in section 11 of this Act, may, in case of non-payment or non-recovery thereof, be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

Recovery of penalties, &c.

17. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be apprehended and detained in custody until return of warrant of distress.

18. If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment of offender if distress not sufficient.

19. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Recovery of penalty and costs from European British subjects.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

Jurisdiction.

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate :

Interpretation-clause.

The term "British India" in this Act shall denote the territories that are or shall be vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India :"

All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India :*

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Words importing the masculine gender shall include the feminine.

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* See Act XVI. of 1876, sec. 1.

FOREIGNERS.

ACT NO. III. OF 1864.

RECEIVED THE G.-G.'s ASSENT ON THE 12TH FERBUARY 1864.

*An Act to give the Government certain powers with respect to Foreigners.**

Preamble.

WHEREAS it is expedient to make provision to enable the Government to prevent the subjects of foreign States from residing or sojourning in British India, th[illegible] from passing through or travelling therein, without the consent of Pr[illegible] Government; It is enacted as follows :—

Interpretation-clause.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :—

The words "British India" shall denote the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Victoria, chapter 106, entitled "An Act for the better Government of India :"

The words "Local Government" shall denote the persons authoriz[illegible]d to administer the executive government in any part of British India, or the chief executive officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such chief executive officer shall, by an order of the Governor-General of India in Council published in the *Gazette of India*, be authorized to exercise the powers vested by this Act in a Local Government :

The word "foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 & 4 William IV., chapter 85, section 81, or a native of British India :

The words "the Magistrate of the District" shall denote the chief officer charged with the executive administration of a district, and exercising the powers of a Magistrate, by whatever designation the chief officer charged with the executive administration is styled, or, in the absence of such officer from the station at which his Court is usually held, the senior officer at the station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure :

The word "vessel" shall include anything made for the conveyance by water of human beings or property :

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* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV of 1874.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Words importing the masculine gender shall include females.

Proof of being foreigner.

2. If a question shall arise whether any person alleged to be a foreigner, and to be subject to the provisions of this Act, is a foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Government may order foreigner to remove himself.

3. The Governor-General of India in Council may, by writing order any foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order ;

and any Local Government may, by writing, make the like order with reference to any foreigner within the jurisdiction of such Government.

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained.

4. If any foreigner ordered to remove himself from British India, or order to remove himself therefrom by a particular route, shall neglect or refuse so to do ; or

if any foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council, or by the Local Government under whose order he shall have removed himself or been removed,

such foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the Local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or Local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

Governor-General may order provisions of Act to be in force in British India, or in part thereof.

5. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor-General of India in Council, by a notification published in the *Gazette of India*,

to order that the provisions of this and the subsequent sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act, including this and the subsequent sections, shall have full force and effect in British India or such part thereof as shall have been so specified.

The Governor-General of India in Council may, from time to time, by a notification published as aforesaid, cancel or alter any former notification which may still be in force, or may extend the period declared therein:

Proviso.

Provided that none of the provisions of this or the subsequent sections of this Act shall extend—

to any foreign minister duly accredited by his Government;

to any consul or vice-consul;

to any person under the age of fourteen years; or

to any person in the service of Her Majesty.

Foreigner to report arrival in India in certain cases.

6. Every foreigner, on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding section, from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a presidency-town, forthwith report himself to the Commissioner of Police of such town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the district, or to such other officer as shall be appointed to receive such reports, by the Governor General of India in Council or by the Local Government of such place.

What to be stated in report.

7. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such presidency-town or other place.

The report shall be recorded by the officer to whom it is made.

Foreigners, being masters of vessels or employed therein, when to report.

8. The provisions of the last two preceding sections shall not extend to any person being the master or commander of a vessel or employed therein;

but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force,

after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners, neglecting to report, how dealt with.

9. If any foreigner shall neglect to report himself as required by this Act, he may be dealt within the manner hereinafter provided in respect of foreigners travelling without a license.

No foreigner to travel without license.

10. No foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

License by whom granted.

11. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the Local Governments, under the signature of a Secretary to the Government of India or to such Local Government, as the case may be, or by such other officers as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the Local Governments.

What to be stated in license.

12. Every such license shall state the name of the person to whom the license is granted, the nation to which he belongs, the district or districts, through which he is authorized to pass, or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions,

13. The license may be granted subject to such conditions as the Governor-General of India in Council or the Local Government may direct, or as the officer granting the license may deem necessary.

and may be revoked.

Any license may be revoked at any time by the Governor-General of India in Council, or by the Local Government of any part of British India in which all the provisions of this Act are for the time being in force, and in which the foreigner holding the same may be, or by the officer who granted the license.

Foreigner travelling without, or contrary to conditions of, license, may be apprehended.

14. If any foreigner travel in, or attempt to pass through, any part of British India without such license as aforesaid, or beyond the districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any officer exercising any of the powers of a Magistrate, or by any commissioned officer in the service of Her Majesty, or by any European com-

member of a volunteer corps enrolled by authority of Government whilst on duty, or by any police-officer.

Procedure upon apprehension.

15. If any person be apprehended by a person not exercising any of the powers of a Magistrate, and not being a police-officer, he shall be delivered over as soon as possible to a police-officer, and forthwith carried before the Magistrate of the district.

Magistrate to report to Government.

Whenever any person shall be apprehended by or taken before the Magistrate of the district, such Magistrate shall immediately report the case to the Local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the presidency-towns, or, pending the orders of such Government, to be detained.

Persons apprehended may be admitted to bail.

16. Any person apprehended or detained under the provisions of this Act may be admitted to bail by the Magistrate of the district, or by any officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

17. The Local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India by sea or by such other route as the said Local Government may direct; or the said Local Government may cause him to be removed from such part of British India by such route and in such manner as to such Local Government shall seem fit.

The Governor-General of India in Council may exercise all the powers given by this section to any Local Government.

Governor-General may, prohibit persons not being natural-born subjects from travelling through India without license.

18. The Governor-General of India in Council may by order prohibit any person, or any class of persons, not being natural-born subjects of Her Majesty within the meaning of the Statute 3, and 4 William IV., chapter 85, section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another without a license to be granted by such officer or officers as shall be specified in the order;

Effect of disobedience.

and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in section 14 of this Act, and carried before the Magistrate of the district, and dealt

with under the provisions of section 17 in the same manner as if he were a foreigner ;

and the Governor-General of India in Council may order such person to be detained in safe custody, or under the surveillance of the police, so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Like power of Local Governments within their respective jurisdictions.

19. The Local Government of any presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person, or any class of persons, not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., chapter 85, section 81, from travelling in or passing through such presidency or place, or any part thereof, and from passing from any part thereof to another, without a license to be granted by such officer or officers as shall be specified in the order ;

Effect of disobedience.

and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in section 14 of this Act, and carried before the Magistrate of the district, and dealt with under the provisions of section 17 in the same manner as if he were a foreigner ;

and the Local Government may order such person to be detained in safe custody, or under the surveillance of the police, so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Certain officers may board vessels to ascertain whether foreigners are on board.

20. It shall be lawful for the Commissioner of Police, or for the Magistrate of the district, or for any officer appointed to receive reports as mentioned in section 6 of this Act, or for any police-officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any foreigner bound to report his arrival under the said section 6 of this Act is on board of such vessel ;

and it shall be lawful for such Commissioner of Police, Magistrate, or other officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose ;

Master of vessel to furnish list of passengers, and to give information respecting them.

and the master or commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other officer as aforesaid, deliver to him a list in writing of

the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation, or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other officer as aforesaid.

Foreigner refusing to give account of himself, how dealt with.

If any foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a foreigner travelling in British India without a license.

Penalty for false answer or report.

21. If the master or commander of a vessel shall wilfully give a false answer to any question which by section 20 of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in section 177 of the Indian Penal Code.

Penalty for master not complying with requisitions of Act.

22. If the master or commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the district or a Justice of the Peace, be liable to a fine not exceeding two thousand rupees.

Penalty for obstructing officers.

23. Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act shall be held to have committed the offence specified in section 186 of the Indian Penal Code.

Fines imposed under Act how recovered.

24. All fines imposed under this Act may "be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts."*

Power to exempt from provisions of Act.

25. The Governor-General of India in Council, or the Local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the sections subsequent to section 5, and may at any time revoke any such exemption.

* The words quoted have been substituted for certain words repealed by Act XII of 1891.

POST OFFICE.

ACT NO. XIV. OF 1866.

RECEIVED THE G.-G.'S ASSENT ON THE 23RD MARCH 1866.

An Act to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

Preamble.

WHEREAS it is expedient to amend the law for the management of the post-office, for the regulation of the duties of postage, and for the punishment of offences against the post-office: It is enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Indian Post Office Act, 1866."

Interpretation-clause.

2. In this Act—unless there be something repugnant in the subject or context—

"Criminal Court" includes every Judge, Magistrate, Justice of the Peace, or Police Magistrate lawfully exercising jurisdiction in criminal cases:

"Fine" includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance:

"Clubbed packet" shall be taken to mean a packet containing a collection of letters, not made by an agent of the post-office, transmitted through the post-office with the view of the enclosed letters being delivered to more than one person through the agent of the person by whom the packet was made up:

"Newspaper" shall include any periodical publication, published at regular intervals not exceeding thirty-one days:

"Mails" shall include any letter, parcel, or other article conveyed under the provisions of this Act, as well as any box, bag, or other article, or any carriage, horse, messenger, or other person employed or used by the post-office for the conveyance or safe custody of the mails: and

"British India" includes the territories which are now or shall be vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap., 106 (*an Act for the better Government of India*).

3. [*Repealed by Act XIV. of 1870.*]

4. References to any section of Act No. XVII. of 1854, made in any Act passed subsequent thereto, shall be read as if made to the corresponding section of this Act.

References to Act XVII. of 1854 read as to this Act.

5. Wheresover, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching, and delivering all letters, except in the following cases, that is to say—

Exclusive privilege of carrying letters vested in Government of India.

(1) letters sent by a private friend in his way, journey, or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward, or other profit or advantage for receiving, carrying, or delivering the same;

(2) letters solely concerning the affairs of the sender or receiver thereof sent by a messenger on purpose;

(3) letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward, or other profit or advantage for receiving, carrying, or delivering such letters.

But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

Bar to collection of excepted letters.

6. Wheresover, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender, or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say—

Persons expressly forbidden to collect, carry, or deliver letters.

(1) common carriers of passengers or goods, and their drivers, servants, or agents, except letters solely concerning goods in their carriages:

(2) owners and commanders of ships, steam-boats, or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

7. For carrying on the service of the post office, it shall be lawfor the Governor-General of India in Council to appoint or to authorize the appointment of

Appointment of officers for service of post-office.

such officers, with such official styles or designations, and to invest them with, and delegate to them, such powers, not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may, from time to time, deem expedient.

PART II.

POSTAGE RATES.

Postage-rates on letters.

8. Wheresoever posts or postal communications are or shall be established by the Government of India, postage, if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the letter-post by land, according to the following scale :—

On every letter not exceeding a quarter of a tolah in weight,—six pie :

On every letter exceeding a quarter of a tolah and not exceeding half a tolah in weight,—one anna :

On every letter exceeding half a tolah, and not exceeding one tolah in weight,—two annas :

And for every half tolah in weight above one tolah, one additional anna ; and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every article transmitted by the letter-post shall be deemed a letter within the meaning of this section, unless it be an article on which a different rate of postage shall be chargeable under this Act.

Postage-rates on newspapers.

9. Wheresoever posts or postal communications are or shall be established by the Government of India, postage or newspapers, transmitted by the letter-post by land, shall be charged by weight according to the following scale :—

On every newspaper not exceeding ten tolahs; in weight,—one anna:

On every newspaper exceeding ten tolahs, and not exceeding twenty tolahs in weight,—two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna ; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper, and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper through the post-office, but it shall be lawful for all persons to send the same in any other manner.

10. A newspaper shall not be sent by the letter-post at the rates prescribed in the last preceding section, unless the following conditions be observed, that is to say—

Newspapers how sent by letter-post.

(1) it shall be without a cover, or in a short cover open at both ends:

(2) there shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender:

(3) there shall be no paper or thing enclosed in or with any such newspaper.

11. Any newspaper sent by the letter-post in respect of which the above conditions shall not be observed shall, together with anything enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Newspapers when charged with letter-postage.

12. Proof-sheets marked as such may be sent by the letter-post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender; otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof-sheets.

13. Subject to such rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers, and other articles, provided the postage thereon be pre-paid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates of postage, without reference to the distance to which they may be carried:—

Postage-rates on books, packets of newspapers, &c.

If not exceeding ten tolahs in weight,—one anna:

If exceeding ten tolahs, and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy-parcels in section 14 of this Act.

14. Inland postage shall be charged by weight and distance, on parcels sent by the banghy-post, according to the following scale:—

Inland banghy-postage.

FOR DISTANCES.		IF NOT EXCEEDING IN WEIGHT.													
		20 Tolas.		50 Tolas.		100 Tolas.		200 Tolas.		300 Tolas.		400 Tolas.		500 Tolas.		600 Tolas.	
	Miles	RS.	AS.	RS.	AS.	RS.	AS.	RS.	AS.	RS.	AS.	RS.	AS.	RS.	AS.	RS.	AS.
Not exceeding ...	300	0	4	0	8	0	12	1	8	2	4	3	0	3	12	4	8
Not exceeding ...	600	0	8	1	0	1	8	3	0	4	8	6	0	7	8	9	0
Not exceeding ...	900	0	12	1	8	2	4	4	8	6	12	9	0	11	4	13	8
Not exceeding ...	1,200	1	0	2	0	3	0	6	0	9	0	12	0	15	0	18	0
Exceeding	1,200	1	4	2	8	3	12	7	8	11	4	15	0	18	12	22	8

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding fifty rupees.

Table of distances for calculation of banghy-postage.

15. Banghy-postage, when chargeable by distance under section 14 of this Act, shall be calculated and charged according to such table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council.

And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to post-offices not entered in such table shall, for the purposes of this Act, be regarded as represented by the distances shown in the table from or to the post-offices nearest to them respectively.

Each Post-Master-General shall prepare from the aforesaid table, in the English and vernacular languages, for the use of every post-office under his control, a list of all the other post-offices in India, arranged alphabetically, and showing the distance of each of them from the post-office for the use of which it is made, and such list shall be affixed in some conspicuous place in such post-office.

Where no banghy-post, parcels, books, &c., carried by letter-post.

16. Where there is no banghy-post established on any line of road, parcels, books, and other articles shall be received and transmitted by the letter-post, and shall be charged with postage according to the scale in section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet, or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any section of this Act.

Effect of false certificate.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet, or other article, shall be

charged with letter-postage as if sent separately; and the sender shall be subject to the penalty hereinafter provided.

When book-packets and parcels to go by letter-post.

17. All book-packets and parcels not exceeding ten tolahs in weight, sent through the post-office, shall be conveyed by letter-post, and be charged with letter-postage, unless specially directed to be sent by banghy or book-packet post.

Ship-postage on parcels.

18. On all parcels chargeable under section 14 of this Act with banghy-postage according to distance when conveyed by land, ship-postage shall be charged when they are conveyed by means of Her Majesty's Indian post by sea, according to the following scale, that is to say—

On every parcel not exceeding twenty tolahs in weight,—two annas:

On every parcel exceeding twenty tolahs, but not exceeding forty tolahs in weight,—four annas:

On every parcel exceeding forty tolahs, but not exceeding one hundred tolahs in weight,—eight annas:

And for every hundred tolahs in weight above one hundred tolahs,—eight additional annas.

Every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by Her Majesty's Indian post, partly by land and partly by sea, ship-postage shall be charged in addition to inland banghy-postage.

Governor-General may direct pre-payment of postage in all cases.

19. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps; or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Governor-General may alter postage rates.

20. It shall be lawful for the Governor-General of India in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in sections 8 and 9 of this Act.

Governor General may fix rates of steam-postage.

21. It shall be lawful for the Governor-General of India in Council from time to time to direct that postage-duties, different from the rates authorized

by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the post from or to any part of Great Britain, or any British colony, or any foreign country to or from any places in British India.

The postage charged on any letter or other article specified in any order of Council made under this section, whether under the name of steam-postage or any other denomination, shall, after the rates of such postage have been published in the official gazette of any presidency, be recovered in the same manner as postage under this Act.

Governor-General may fix postage-rates for articles sent wholly or partly by sea.

22. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by post, by sea, or partly by sea and partly by land, from one part or place in India to another.

It shall not be necessary that such rates be uniform; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

Governor General may fix express postage-rates.

23. It shall be lawful for the Governor-General of India in Council from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Re-directed letters.

24. On every letter or other article, which shall be re-directed at any post-office or forwarded by post from any place to which it shall have been conveyed by post, there shall be charged for the postage thereof from the place at which the same shall be redirected, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed, or from which it shall be forwarded.

PART III.

REGISTERED LETTERS.

Letters may be registered.

25. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving post-office, and that a receipt shall be granted for such registered letter or article;

Fee for registering.

and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which

which the sender thereof shall require to be so registered, and such registration-fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Power to declare in what cases registration compulsory, and direct levy of double registration-fee.

26. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration-fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration-fee shall not have been pre-paid as directed in section 25.

PART IV.

RE-DELIVERED, UNPAID, UNCLAIMED, AND REFUSED LETTERS.

Re-delivery of letters and other articles once put into post-office.

27. No person having delivered into any post-office any letter or other article shall be entitled to recall the same; but nothing in this section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations, if any, as the Governor-General of India in Council may, from time to time, prescribe in that behalf.

Liability for postage, of receiver of unpaid letters, &c.

28. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon.

Sender when liable.

If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof.

Recovery of postage payment of which refused.

If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post-Master-General, or by any officer in charge of a post office by order of a Post-Master-General, in the same manner as a fine may be recovered under this Act;

Power to detain other letters to person refusing.

and it shall be lawful for the officer in charge of any post-office to with-hold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on her Majesty's service:

Power to remit postage.

Provided always that, if a letter or other article shall appear to the satisfaction of the Post-Master of the office of delivery to have been maliciously sent for

the purpose of annoying the person to whom it is addressed, the Post-Master of the delivery-office may remit the postage.

29. *Clause 1.*—A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every post-office, and exposed for not less than two weeks in the most conspicuous part of such office ;

List of unclaimed letters.

and all such letters and other articles which shall have remained three weeks unclaimed in any office shall, if the sender's name and address are written on the cover, be returned to the posting office to be delivered to the sender free of all charge.

Return to posting office for delivery to sender.

All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the office of the Post-Master-General of the presidency.

Letters of which sender not ascertainable without opening.

Clause 2.—The Post-Master-General or some person duly appointed for the purpose, and bound to secrecy, shall immediately open all such letters or other articles, and, if the addresses of the senders can be discovered, shall enclose them in dead letter covers, and return them to the senders. All letters and other articles of which neither the person addressed nor the sender can be found shall, after they have remained unclaimed in the office of the Post-Master-General for one year, be destroyed.

Opening letters.

Return to sender.

When destroyed.

Clause 3.—All money found in any unclaimed letter or other article shall be paid into the public treasury ; and all other valuable property found as above shall be sold by the Post-Master-General of the presidency or by some one duly authorized by him for that purpose ; and the proceeds of the sale shall be paid into the public treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Disposal of money and valuables.

30. Every letter or other article rejected unopened by the person to whom it is addressed shall, if any postage is due thereon, and if the sender's name and address are written on the cover, be returned to the posting office in order that the postage due may be recoverd from the sender ;

Refused letters how dealt with.

in all other cases, or when sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the

office of the Post-Master-General of the presidency, who shall open the letter or other article, and take measures to recover the postage from the sender, or shall, at his discretion, destroy the letter or other article;

and all money or other valuable property which such letter or other article may contain shall be disposed of in the manner prescribed in the preceding section with respect to such money or property contained in unclaimed letters.

Disposal of money and valuables.

PART V.

MAILS ON BOARD INWARD AND OUTWARD-BOUND VESSELS.

31. When any vessel arrives by sea at any place within British India at which there is a post-office, the commander of such vessel shall, as speedily as possible, cause every letter, mail-bag, box, and packet on board of such vessel which is directed to that place, and not excepted from the exclusive privilege of the post-office, to be delivered either at the post-office or to some officer of the post-office authorized to receive the same;

Commanders of inward-bound vessels carrying mails how to proceed on arrival.

and if there be on board any letter, mail-bag, box, or packet, directed to any other place, and not excepted from the exclusive privilege aforesaid, the said commander shall, as speedily as possible, report the same to the Post-Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post-Master, and the receipt of such Post-Master shall discharge such commander from all responsibility in respect of such letter or packet.

Every commander of a vessel who shall wilfully disobey any of the directions contained in this section shall be punished with a fine not exceeding one thousand rupees.

Penalty.

32. Every person being either the commander of a vessel inward-bound, or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the post-office, after any part of the letters on board the said vessel shall have been sent to the post-office, shall forfeit, for every such letter, a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody;

Penalties for detention of letters on board inward-bound vessel.

and every such person who shall detain any such letter after demand made for the same by an officer of the post-office shall forfeit, for every such letter, a sum not exceeding one hundred rupees.

Bounty money.

33. For every letter delivered by the commander of any ship in conformity with the directions of section 31 of this Act, the officer in charge of the post-office shall pay to the said commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act:

Limitation of claim thereto.

Provided that no payment shall be made to the commander of any vessel on account of the delivery of any letter, unless the claim of such commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel:

Saving of letters, &c., conveyed in mail ships.

Provided also that nothing contained in section 31 and the former part of this section of this Act shall extend to any letter or mail-bag, or box or packet conveyed by any mail-ship or mail-steamer recognized as such by the Governor-General of India in Council.

Commanders of outward-bound vessels to receive mails on board.

34. The commander of every vessel leaving any place in British India by sea shall receive on board of such vessel every letter and packet which he shall be required so to receive by any officer of the post-office, and shall give a receipt for such letter or packet; and every commander of a vessel who shall wilfully disobey any direction contained in this section shall be punished with a fine not exceeding one thousand rupees.

PART VI.

POSTAGE-STAMPS.

Stamped letters considered pre-paid.

35. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act) shall, provided the stamp or stamps shall not have been used before, be considered as prepaid.

Postage stamps provided by Government.

36. The Governor-General of India in Council shall cause postage-stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Management of postage-stamps.

37. Postage-stamps, provided as aforesaid, shall be under the care and management of such officer or officers as the Governor-General of India in Council shall from time to time direct.

Purpose of issue. Crediting sale-proceeds.

Postage-stamps shall be considered as stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the post-office.

Power to make rules for appointment and government of vendors of postage stamps.

38. The Governor-General of India in Council may, from time to time make rules for the appointment and government of vendors of postage-stamps, and thereby direct how and under what terms and conditions postage-stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors; and whether any and what remuneration or discount shall be allowed to them; and how, and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

Penalty for breach of such rules.

39. Government vendors of postage-stamps shall be bound by such rules, and, in case of any wilful breach thereof, shall be punished with a fine not exceeding two hundred rupees, in addition to any other proceedings to which they may be liable.

Penalty for refusing to supply stamps.

40. Any Government vendor of postage-stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage-stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp-vendor having in his possession for sale sufficient stamps of the description and value required), shall be punished with a fine not exceeding one hundred rupees.

Penalty for selling stamps for price higher than value denoted.

41. Any Government vendor of postage-stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold shall be punished, on conviction, with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court in the same manner as any penalty under this Act.

PART VII.

OFFENCES AGAINST THE POST OFFICE.

Penalty for sending dangerous substance by post.

42. No person shall knowingly post or send, or tender or deliver in order to be sent by the post, any letter, parcel, or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished, for every such offence, with a fine not exceeding two hundred rupees.

Making false certificate to defraud post-office.

43. Every person, who shall, for the purpose of defrauding the post-office revenue, wilfully certify by writing on any official or other letter or packet delivered at any post-office for conveyance by post, that which is not true in respect of such letter or packet, or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by post, under colour or pretence of an official communication, any letter, paper, writing, or other enclosure of a private nature,

Sending private letter as official.

shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

Penalty.

Penalty for detaining mails or opening mail-bags.

44. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a post-office messenger whilst carrying the mails, or to detain any carriage or horse upon which the mails are being carried, or on any pretence to open a packet or mail-bag or box in transit from one post-office to another; and every person who shall be guilty of any of the offences mentioned in this section shall be punished with a fine not exceeding five hundred rupees.

Penalty for retaining letters, &c., delivered by mistake.

45. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an officer of the post-office, shall neglect or refuse to deliver up, a post-letter or other article which ought to have been delivered to any other person, or a mail-bag, box, or packet containing a letter or other article which shall have been sent by the post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for conveying letter in breach of privilege.

46. *Clause 1.*—Every person who shall convey, otherwise than by the post, a letter not excepted from the said exclusive privilege conferred on the Gov-

ernment of India by section 5 of this Act, shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Penalty for performing, otherwise than by post, services incidental to conveying letters.

Clause 2.—Every person who shall perform, otherwise than by the post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering, or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for making clubbed packet, or tendering or delivering letter to be sent therein.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for collecting excepted letters to send them otherwise than by post.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the post shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for breach of provisions of section 6.

Clause 6.—Every person who shall carry, receive, tender, or deliver a letter, or collect letters contrary to the provisions of section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for practice of acts mentioned in section.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this section shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding 500 Rs.

Penalty for neglect on part of persons employed to carry mails.

47. Every person employed to convey or deliver any mail-bag or box, or any letter or other article sent by post, who shall be guilty, while so employed, of drunkenness, carelessness, or other misconduct, whereby the safety of any such bag, box, or letter, or other article, shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter, or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter, or other article, shall be liable to a fine not exceeding fifty rupees;

and any person employed to deliver a letter or other article sent by the post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the post-office where he received such letter or other article, and return the same ; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for stealing, &c., or opening, letters, &c., by persons employed in post-office.

48. Whoever, being in the employ of the Government in the Post-Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy, or throw away any letter or other article sent by post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail-bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as definedin the Indian Penal Code for a term not exceeding seven years, and shall also be liable to fine.

Penalty for fraudently altering marks on letters, &c., by persons employed in post-office.

49. Whoever, being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove, or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article any stamp which shall have been removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly, or altering or secreting, documents by persons employed in post-office.

50. Whoever, being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters, on which postage not paid or charged by per-

51. Whoever, being in such employ as last aforesaid, shall send by the post, or put into any mail-bag or box, any unstamped letter or other article upon

sons employed in post-office.

which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for abetting or concealing offences under Act.

52. Whoever abets, within the meaning of the Indian Penal Code, or conceals, any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

Person charged with offence punishable with fine only may be summarily convicted.

53. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Conviction quashed on merits only.

Form of conviction.

54. No conviction, order, or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment, shall be aided by what so appears in such depositions.

55. [*Repealed by Act XII. of 1876.*]

Fines how levied.

56. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court,* may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers.

Detention of offender.

In case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take security by way of recognizance or otherwise.

* See Act XII. of 1876.

If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case ; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

57. A share not exceeding one moiety of every fine imposed and recovered under this Act may be awarded to the informer.

Share of fine to informer.

58. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director-General of the Post-office, or of a Post-Master-General, or other officer specially invested with the powers of a Post-Master-General.

No proceedings for recovery of fines taken without order.

59. If any public servant who shall be employed in the post-office department, or shall be appointed a vendor of postage-stamps, or entrusted by the Government of India or any Local Government with the sale of postage-stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed, appointed, or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within British India ;

Punishment of post-office servants committing offences in allied States.

and every such person may be tried, convicted, and punished, either by fine or otherwise, according to the nature of the offence, by any Court or officer duly empowered by the Governor-General of India in Council to take cognizance of offences committed in such dominions by public servants,

Officers authorized to try them.

or by any Court or Magistrate, or other competent officer in any part of British India, in the same manner as if the offence had been committed in such part.

Letters, &c., suspected to contain contraband articles or writing in contravention of Act, how dealt with.

60. If any officer in charge of a post-office shall suspect that any letter or other article lying for delivery at his office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the post-office contains any writing or enclosure in contravention of the provisions of section 14, 16, or 43 of this Act, it shall be lawful for such officer to summon the person to whom the letter or other article is directed to attend at the post-office by himself or agent, within forty-eight hours after the arrival thereof at that post-office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and, if that person shall not so attend by himself or agent, then to open it in the absence of that person:

Witnesses to examination of letter.

Provided that, if the officer in charge be under the rank of a Post-Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed:

Delivery of letter to addressee.

Provided also that in all cases the opened letter or other article shall be subsequently delivered to the person to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post-Master-General.

Power to require customs-pass.

It shall also be lawful for any officer in charge of a post-office to refuse to forward any parcel through the post-office by sea to any foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a custom-house pass.

Search for newspapers, &c., in respect of which a notification has been published under section 19 of the Sea Customs Act.

60A.* Whenever any notification has been published under section 19 of the Sea Customs Act, 1878, in respect of any newspaper, book, pamphlet, placard, broadsheet, or other document, any officer of the Postal Department empowered in this behalf by the Governor-General in Council, by name or in virtue of his office, may search, or cause search to be made, for any copies of the same in the custody of that Department, and shall deliver all such copies found to such officer as the Governor-General in Council may appoint in this behalf by name or in virtue of his office, and such copies may be disposed of in such manner as the Governor-General in Council may from time to time direct.

* Section 60A has been added by Act III. of 1882, sec. 3.

61. Whenever an offence shall be committed in respect of any mail-bag or box, or any letter or other article sent by the post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of such mail-bag, box, letter, or other article in the Post-Master-General of the presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise that such mail-bag, box, letter, or other article, was of any value; and, in any charge to be preferred against any person employed under the post-office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the post-office at the time of committing the offence without stating further the nature or particulars of his employment.

In charges for offences under Act, property sent by post laid in Post-Master-General.

Proff of value unnecessary.

Statement that offender employed in post-office sufficient.

PART VIII.

MISCELLANEOUS.

62. Letters and other articles on Her Majesty's service, certified to be such by the signature of any public officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the post, and the postage due thereon shall be charged to or recovered from the several public departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

Letters on Her Majesty's service, duly certified as such, how charged.

63. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the post-office not inconsistent with this Act, and therein to prescribe the regulations, conditions, and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed, and delivered.

Governor-General may frame rules.

64. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zamindari, thana, or other district-daks, and to declare from time to time what portions of this Act shall be applicable to such daks, and to persons employed in connection therewith.

District-daks.

65. The Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the post-office* for conveyance;

Government not responsible for loss.

* 1 Madr. H. C. R. 202. As to the Government bullock-trian, see 3 N.-W. P. H. C. R. 195.

and no person employed by the Government in the post-office department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously, or fraudulently.

Responsibility of its servants.

NOTES UNDER THE POST OFFICE ACT.

On a reference by a Sessions Judge in reviewing the monthly magistrial returns, *held* that a conviction and sentence recorded by a Magistrate, F. P., under sec. 50 of the Post Office Act (XVII. of 1854), corresponding with sec. 48 of Act XIV. of 1866, were illegal, as the Magistrate had no jurisdiction finally to dispose of the case, but was bound to have committed it for trial before the Court of Session.—3 Bom. H. C. R., 8.

Act XIV. of 1866 does not provide for the punishment of abetting an offence under that Act. Under sec. 109 of the Penal Code, the abetment must be of an offence punishable under that Act, and not of an offence punishable under a distinct and special law.—7 W. R., 54.

A Subordinate Magistrate has jurisdiction to try a prisoner for an offence under sec. 47 of the Post Office Act (XIV. of 1866).—5 Bom. H. C. R., 36.

The accused, being entrusted to put a proper amount of stamps on a letter, and return such as might not be required, did not return them, but misappropriated stamps to the value of two annas, and was convicted and punished under sec. 49 of the Post Office Act (XIV. of 1866), instead of under the Penal Code for criminal breach of trust. As the accused had not been sentenced to a larger amount of punishment than could have been awarded for criminal breach of trust, nor shown to have been prejudiced by the error of convicting him under the Post Office Act, the High Court could not, under sec. 426, Code of Criminal Procedure, reverse or alter the sentence, pointing out at the same time that this was one of those cases in which it was a mistake to look at the smallness of the amount misappropriated rather than to the gravity of the offence.—17 W. R., 50.

To give a Magistrate jurisdiction to take cognizance of an offence without any complaint under sec. 68, Code of Criminal Procedure, there must be an offence committed which is punishable under the Penal Code or under some special Act. *Per* KEMP J. (GLOVER, J., doubting).—That the opening of a newspaper by a person employed in the Post Office, and replacing it in its envelope, does not constitute an offence under sec. 48, Act XIV. of 1866, as it could not be said that the accused stole, fraudulently appropriated, wilfully secreted, destroyed, or threw away any letter or other article sent by Post. *Per* KEMP and GLOVER, JJ.—There must be a fraudulent intention in the act of the accused before he can be convicted under sec. 48. —10 W. R., 4.

The accused, being in the employ of Government in the Post Office Department, while assisting in the sorting of letters, secreted two letters with the intention of handing them to the delivery peon, and sharing with him certain moneys payable upon them. He was charged under the Indian Post Office Act, sec. 48:—*Held*, (1) that since the intention of the accused was not to prevent the delivery of the letters to the addresses, he was not guilty of the offence of secreting them within the meaning of that section; (2) that he was guilty of the offence of stealing and of fraudulently misappropriating the letters within the meaning of that section, and of the offence of theft and attempt to commit dishonest misappropriation of property within the meaning of the Penal Code.—I. L. R., 14 Madr. 229.

PRINTING PRESSES.

ACT NO. XXV. OF 1867.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND MARCH 1867.

*An Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.**

WHEREAS it is expedient to provide for the regulation of printing-presses and of periodicals containing news, for the preservation of copies† of every book printed or lithographed in British India, and for the registration of such books; It is hereby enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

Interpretation-clause.

1. In this Act, unless there shall be something repugnant in the subject or context,—

"Book" includes every volume, part, or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart, or plan separately printed or lithographed:

"British India" means the territories which are or shall be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*an Act for the better Government of India.*‡

"Magistrate" means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police.§

Words in the singular include the plural, and *vice versa*; words denoting the masculine gender include females:

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer executive government in such part, and includes a Chief Commissioner.

2. [*Repealed by Act XIV. of 1870.*]

* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV. of 1874.

† In the preamble, the word "three," which had been originally inserted before the word "copies," has been omitted, having been repealed by Act X. of 1890, sec 1.

‡ Here the words, "other than the Settlement of Prince of Wales's Island, Singapore, and Malacca," have been omitted, having been repealed by Act XII. of 1891.

§ In sec 1, in the definition of the word "Magistrate," the words "and a Justice of the Peace," which had originally been inserted after the word "Police," has been omitted, having been repealed by Act X. of 1890, sec. 2.

PART II.

OF PRINTING-PRESSES AND NEWSPAPERS.

Particulars to be printed on books and papers.

3. Every book or paper printed within British India shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) "the name"* of the publisher, and the place of publication.

Keeper of printing-press to make declaration.

4. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be :—

"I, *A B*, declare that I have a press for printing at————." And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

Rule as to publication of printed periodicals containing public news.

5. No printed periodical work, containing public news or comments on public news, shall be published in British India, except in conformity with the rules hereinafter laid down :—

(1) The printer and the publisher of every such periodical work shall appear before the Magistrate within whose local jurisdiction such work shall be published, and shall make and subscribe, in duplicate, the following declaration :—

"I, *A B*, declare that I am the printer [*or* publisher, *or* printer and publisher] of the periodical work entitled——, and printed [*or* published, *or* printed and published, *as the case may be*] at——." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

(2) As often as the place of printing or publication is changed, a new declaration shall be necessary :

(3) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

Authentication of declaration.

6. Each of the two originals of every declaration so made and subscribed as is aforesaid shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made.

* The words quoted have been inserted by Act XII. of 1891.

Deposit.

One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or "other principal Civil Court of original jurisdiction for the place where"* the said declaration shall have been made.

Inspection and copies of declaration.

The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

Office-copy of declaration to be *prima facie* evidence.

7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

New declaration by persons who have signed declaration, and subsequently ceased to be printers or publishers.

8. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration :—

"I, *A B*, declare that I have ceased to be the printer [*or* publisher, *or* printer and publisher] of the periodical work entitled——."

Authentication and filing.

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.

Inspection and supply of copies.

The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and

* In sec. 6, the words quoted have been substituted for the words "other Court within the local limits of whose ordinary original civil jurisdiction."—See Act X. of 1890, sec. 3.

shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.

Putting copy in evidence.

In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

PART III.*

DELIVERY OF BOOKS.

Copies of books printed after commencement of Act to be delivered gratis to Government.

9. Printed or lithographed copies of the whole of every book, which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government as follows, that is to say :—

(*a*) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and

(*b*) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed, or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints, and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

* Part III. has been substituted by Act X. of 1890, sec. 4.

Nothing in the former part of this section shall apply to—

(i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(ii) any periodical work published in conformity with the rules laid down in sec. 5 of this Act.

Receipt for copies delivered under last foregoing section.

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Disposal of copies delivered under section 9.

11. The copy delivered pursuant to clause (*a*) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

Any copy or copies delivered pursuant to clause (*b*) of the said paragraph shall be transmitted to the British Museum or the Secretary of State, for India, or to the British Museum and the said Secretary of State, as the case may be.

PART IV.

PENALTIES.

Penalty for printing contrary to rule in section 3.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Penalty for keeping press without making declaration required by section 4.

13. Whoever shall keep in his possession any such press as aforesaid without making such a declaration as is required by section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Punishment for making false statement.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, and imprisonment for a term not exceeding two years.

15. Whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction before a Magistrate, be punished with fine not exceeding five thousand rupees, or imprisonment for a term not exceeding two years, or both.

Penalty for printing or publishing periodicals without conforming to rules.

16.* If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall, for every such default, forfeit to the Government such sum, not exceeding fifty rupees, as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered, or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

Penalty for not delivering books or not supplying printer with maps.

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints, or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall, for every such default, forfeit to the Government such sum, not exceeding fifty rupees, as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints, or engravings which such publisher or other person ought to have supplied.

17.* Any sum forfeited to the Government under the last foregoing section may be recovered under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorized by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

Recovery of forfeitures and disposal thereof and of fines.

All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct.

* Secs. 16 and 17 have been substituted by Act X. of 1890. sec. 5.

PART V.

REGISTRATION OF BOOKS.

Registration of memoranda of books.

18. There shall be kept at such office, and by such officer, as the Local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered "pursuant to clause (*a*) of the first paragraph of section 9" of this Act.*

Contents of memorandum.

Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say):—

(1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :

(2) the language in which the book is written :

(3) the name of the author, translator, or editor of the book, or any part thereof :

(4) the subject :

(5) the place of printing, and the place of publication :

(6) the name or firm of the printer, and the name or firm of the publisher :

(7) the date of issue from the press or of the publication :

(8) the number of sheets, leaves, or pages :

(9) the size :

(10 the first, second, or other number of the edition :

(11) the number of copies of which the edition consists :

(12) whether the book is printed or lithographed :

(13) the price at which the book is sold to the public : and

(14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Registration of memorandum.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the "copy thereof pursuant to clause (*a*) of the first paragraph of section 9."†

Effect of registration.

Every registration under this section shall, upon payment of the sum of two rupees to the officer keeping the said catalogue,‡ be deemed to be an entry in

* In sec. 18, the words, letter, and figure quoted have been substituted for the words and figure " pursuant to sec. 9."—See Act X. of 1890, sec. 6.

† In sec. 18, the words, letter, and figure quoted have been substituted for the words "copies thereof in manner aforesaid."—See Act X. of 1890, sec. 6.

‡ All such books as become the property of Government for educational purposes are exempted from this payment.—Home Department, No. 4823, dated 21st October 1869, *Gazette of India*, Oct. 23, 1869, p. 400.

the book of registry kept under Act No. XX of 1847 (*for the encouragement of learning in the Territories subject to the Government of the East India Company, by defining, and providing for the enforcement of, the right called Copyright therein*) ; and the provisions contained in that Act as to the said book of registry shall apply, *mutatis mutandis*, to the said catalogue.

Act XX of 1874 applied.

19. The memoranda registered during each quarter in the said catalogue shall be published in the local Gazette as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State and to the Secretary to the Government of India in the Home Department respectively.

Publication of memoranda registered. Sending copies.

PART VI.

MISCELLANEOUS.

20. The Local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter, and add to such rules.*

Power to make rules.

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

Publication.

21. The Governor-General of India in Council may, by notification in the *Gazette of India*, exclude any class of books from the operation of the whole or any part or parts of this Act.†

Power to exclude any class of books from operation of Act.

22. [*Repealed by Act X. of 1890, sec. 7.*]

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* Rules have been made under this section by the—

Madras Govt., see *Fort Saint George Gazette*, dated 27th September 1867, p. 749.

Bombay Govt., see *Bombay Govt. Gazette*, dated 6th February 1868, p. 93.

" ditto ditto dated 20th July 1871, p. 783.

Bengal Govt., see *Calcutta Gazette*, dated 3rd July 1867, p. 1137.

N.-W. P. Govt., see *Govt. Gazette, N.-W. P.*, dated 15th May 1867, pp. 327—29.

Panjab Govt., see *Govt. Gazette, Panjab*, dated 20th June 1867, p 531.

Chief Commr., Oudh, see *Govt. Gazette, Oudh*, dated 26th July 1873, p. 8.

" Central Provs., see *Central Provs. Gazette*, dated 13th July 1867, Supp.

NOTE UNDER THE PRINTING PRESSES ACT.

On the prosecution of the editor of a newspaper for defamation under sec. 500 of the Penal Code by publishing a libel in his paper, an attested copy of a declaration made by the editor under sec. 5 of Act XXV. of 1867 to the effect that he was the printer and publisher of the newspaper, was produced in evidence by the complainant. The editor having been convicted by the Magistrate, the Sessions Court on appeal quashed the conviction, on the ground that there was no evidence that the editor was the writer of the libel or permitted its publication. *Held* that, in the absence of proof to the contrary, the declaration was *prima facie* proof of publication by the editor. *Held* also that it would be a sufficient answer to the charge if the editor proved that the libel was published in his absence and without his knowledge, and that he had in good faith entrusted the temporary management of the newspaper during his absence to a competent person.—I. L. R., 9 Madr. 387.

Chief Commr., British Burma, see *British Burma Gazette*, dated 9th October 1875, Part II., pp. 189, 190.

† "By virtue of the power vested in the Governor-General in Council by sec. 21 of Act XXV. of 1867, entitled 'An Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books,' His Excellency in Council is pleased to declare that the following publications are exempted from the provisions of the said Act :—

1.—[*Cancelled.* Home Department, No. 3276, dated 16th August 1872, *Gazette of India*, 17th August 1872, Part I., p. 777.]

2.—Acts of the Legislative Councils without notes or commentaries.

3.—Price-lists and tradesmen's circulars.

4.—Catalogues of books and other articles, auctioneers' notices, and advertisements.

5.—Play-bills, comprising advertisements of theatrical and musical entertainments.

6.—Decisions of Courts of law without notes or commentaries.

7.—Petitions and appeals addressed to constituted authority under the provisions of law.

8.—Testimonials of private individuals or public officers.

9.—Annual reports of schools, banks, societies, and firms.

10.—Almanacs and calendars.

11.—Labels affixed to articles of commerce."—Home Department, No. 5604, dated 21st December 1871, *Gazette of India*, 23rd December 1871, p. 979.

SARAIS AND PURAOS.

ACT NO. XXII. OF 1867.

RECEIVED THE G.-G.'S ASSENT ON THE 15TH MARCH 1867.

*An Act for the regulation of public Sarais and Puraos.**

Preamble.

WHEREAS it is expedient to provide for the regulation of public Sarais and Puraos ; It is hereby enacted as follows :—

1. [*Repealed by Act XII. of* 1891.]

Interpretation-clause.

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

" Sarai" means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarai, the part so used of such building :

It also includes a purao so far as the provisions of this Act are applicable thereto :

"Keeper of a sarai" includes the owner, and any person having or acting in the care or management thereof :

" Magistrate of the District" means the chief officer charged with the executive administration of a district in criminal matters whatever may be his designation :

Words in the singular include the plural, and *vice versa*. And, in any place in which this Act shall operate, " Local Government" shall mean the person administering executive government in such place, and shall include a Chief Commissioner and the Commissioner in Sindh.

Notice of Act to be given to keepers of sarais.

3. Within six months after this Act shall come into operation, the Magistrate of the District in which any sarai to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such sarai notice in writing of this Act, by leaving such notice for the keeper at the sarai; and shall by such notice require the keeper to register the sarai as by this Act provided.

Form of notice.

Such notice may be in the form in the schedule to this act annexed or to the like effect.

Registers of sarais to be kept.

4. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate, or such other person as he shall appoint in this be-

* See *Gazette of India*, Oct. 22, 1881, Pt. I., p. 504 ; *ib.* Sep. 23, 1876, Pt. I., p. 505.

half, the names and residences of the keepers of all sarais within his jurisdiction, and the situation of every such sarai.

No charge shall be made for making any such entry.

Lodgers, &c., not to be received in sarais until registered.

5. After one month after the giving of such notice to register as by this Act provided, the keeper of any sarai or any other person shall not receive any lodger, or allow any person, cattle, sheep, elephant, camel, or other animal, or any vehicle, to halt or be placed in such sarai until the same, and the name and residence of the keeper thereof, shall have been registered as by this Act provided.

Magistrate may refuse to register keeper not producing certificate of character.

6. The Magistrate of the District may, if he shall think fit, refuse to register, as the keeper of a sarai, a person who does not produce a certificate of character in such form, and signed by such persons, as the Local Government shall from time to time direct.

Duties of keepers of sarais.

7. The keeper of a sarai shall be bound—

(1) when any person in such sarai is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police-station :

(2) at all times, when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the sarai, and allow him to inspect the same or any part thereof :

(3) to thoroughly cleanse the rooms and verandahs and drains of the sarai, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of, and so often as shall be required by, the Magistrate of the District, or such person as he shall appoint in this behalf :

(4) to remove all noxious vegetation on or near the sarai, and all trees and branches of trees capable of affording to thieves means of entering or leaving the sarai :

(5) to keep the gates, walls, fences, roofs, and drains of the sarai in repair :

(6) to provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the Local Government may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at, or placed in, the sarai : and

(7) to exhibit a list of charges for the use of the sarai at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

Power to order reports from keepers of sarais.

8. The keeper of a sarai shall, from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing, as may be directed by the Magistrate, to such Magistrate, or to such person as the Magistrate shall appoint, every person who resorted to such sarai during the preceding day or night.

When schedules to be furnished.

If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper.

Keeper to fill up and send schedules.

The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner, and at such intervals, as may from time to time be ordered by him.

Power to shut up, secure, clear, and clean deserted sarais.

9. If any sarai, by reason of abandonment or of disputed ownership, shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicious part of the sarai requiring the persons concerned therein, whoever they may be, to secure, enclose, clean, or clear the same;

and, if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the sarai, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the sarai, by the sale of any material found therein.

Taking down or repairing ruinous sarais.

10. If a sarai, or any part thereof, be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in, or halting at, the sarai, he shall give notice in writing to the keeper of the sarai, requiring him forthwith to take down, repair, or secure (as the case may be) the sarai, or such part thereof, as the case may require.

If the keeper do not begin to take down, repair, or secure the sarai, or such part as aforesaid, within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the sarai as he shall think necessary to be taken down, repaired, or otherwise secured.

All the expenses so incurred by the Magistrate shall be paid by the keeper of the sarai, and shall be recoverable from him as hereinafter mentioned.

Sale of materials of ruinous sarais.

11. If any such sarai, or any part thereof, be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such sarai on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

Penalty for permitting sarais to be filthy or overgrown.

12. Whoever being the keeper of any sarai, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or, after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in section 14 of this Act:

Proviso.

Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on, and cleanse or clear, the said sarai, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

Power for Local Government to make regulations.

13. The Local Government may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act, or with any other law for the time being in force, and may from time to time repeal, alter, and add to, the same.

Regulations to be published.

All regulations made under this Act, and all repeals thereof, and alterations and additions thereto, shall be published in the local official Gazette.

14. If the keeper of a sarai offend against any of the provisions of this Act, or any of the regulations made in pursuance of this Act, he shall, for every such offence, be liable, on conviction before any Magistrate, to a penalty not exceeding twenty rupees, and to a further penalty, not exceeding one rupee a day, for every day during which the offence continues:

Penalty for infringing Act or regulations.

Provided always that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act.

Saving of penalties incurred otherwise.

All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under sections 386, 387, & 389 of the Code of Criminal Procedure.*

Recovery of penalties.

15. Where a keeper of a sarai is convicted of a third offence under this Act, he shall not afterwards act as keeper of a sarai without the license in writing of the Magistrate of the District, who may either withhold such license, or grant the same on such terms and conditions as he may think fit.

Effect of conviction for third offence.

16. No part of this Act, except section 8, shall apply to any sarai which may be under the direct management of the Local Government, or of any municipal committee.

Section 8 only to apply to certain sarais.

17. This Act shall, in the first instance, extend only to the territories under the Government of the Lieutenant-Governor of the North-West Provinces of the Presidency of Fort William in Bengal.

Extent of Act.

But it shall be lawful for the Local Government, by notification in the local Gazette, to extend this Act,† *mutatis mutandis*, to any other part of the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*an Act for the better Government of India*), except the towns of Calcutta, Madras, and Bombay.‡

Power to Local Government to extend Act.

18. This Act may be called "The Sarais Act, 1867."

Short title.

* See Act X. of 1882, sec. 3.

† It has been extended to Oudh.—See Notification No. 591, dated 25th July 1883, —*North Western Provinces and Oudh Gazette*, 28th July 1883, Pt. I., p. 433.

It has also been extended to the Punjab.—See Notification No. 4499, dated 13th December 1879; see *Punjab Gazette*, 18th December 1879, Pt. I., p. 727.

‡ Here the words, "and the settlement of Prince of Wales's Island, Singapore, and Malacca," have been repealed by Act XII. of 1891.

SCHEDULE.

FORM OF NOTICE.

Take notice that on the day of 1867, an Act, called "The Sarais Act, 1867," was passed, and that before the day of 18 . you, being the keeper of a sarai [*or* purao] within [*here state the district over which the jurisdiction of the Magistrate giving the notice extends*], must have your sarai [*or* purao] registered, and that the register is to be kept at [*here state where the register is to be kept*], and that, if you do not have your sarai [*or* purao] so registered, you will be liable to a penalty not exceeding twenty rupees, and to a further penalty, not exceeding one rupee a day, for every day during which the offence continues, and that, on your applying to [*here give the name and address of the person to keep the register*], he will register your sarai [*or* purao] free of all charge to you.

Dated the day of 18 .

GAMBLING.

ACT NO. III. OF 1867.*

RECEIVED THE G.-G.'S ASSENT ON THE 25TH JANUARY 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces, and Lower Burma.

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming houses in the territories† respectively subject to the governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William "and"‡ of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of Lower Burma† ; It is hereby enacted as follows :—

Interpretation-clause.

1. In this Act—

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces, or the Punjab, as the case may be :

"Chief Commissioner."

"Chief Commissioner", means the Chief Commissioner of Oudh, the Central Provinces, or Lower Burma,† as the case may be :

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room, or place in which cards, dice, tables, or other instruments of gaming, are kept or used for the profit or gain of the person owning, occupying, using, or keeping such house, enclosure, room, or place, whether by way of charge for

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* This Act has been declared in force in Upper Burma (except the Shan States). —See Act XX. of 1886, Sch. II,, Pt. I.

Taking part in the game of "*ti*" or other game of a like nature is to be deemed gaming and playing within the meaning of this Act.—See the Burma Gaming Act XVI. of 1884, sec. 2 (1).

For power of Chief Commissioner to extend the local application of this Act, see the Burma Gaming Act XVI. of 1884, sec. 4 (1).

† The territories are now known as Lower Burma.—See Act XX. of 1886, sec. 2 (1) (*b.*) The Chief Commissioner is styled Chief Commissioner of Burma.—See Proclamation, dated Sep. 25, 1886, *Gazette of India*, 25th *idem*, Pt. I. p. 539.

‡ The word "and" has been inserted by Act XII. of 1891.

the use of the instruments of gaming, or of the house, enclosure, room, or place, or otherwise howsoever:

Number. Words in the singular include the plural, and *vice versa*: and

Gender. Words denoting the masculine gender include females.

2. Sections 13 and 17* of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house, and place being not more than three miles distant from any part of such station-house within the territories subject to his Government or Administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb, or station-house, and from time to time to alter the limits so defined.†

Power to extend Act.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room, or place situate within the limits to which this Act applies, opens, keeps, or uses the same as a common gaming-house; and

Penalty for owning or keeping, or having charge of, gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room, or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used, or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room, or place as aforesaid, opened, occupied, used, or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room, or place,

* The words and figures, "Sections 13 and 17," have been substituted for the words and figures, "Sections 13, 17, and 18," as sec. 18 has already been repealed.—See Act XII. of 1891.

† Under sec. 2, the remaining sections of this Act have been extended to a large number of places in Burma, too numerous to be here specified.

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room, or place playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month ;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize police to enter and search.

5. If the Magistrate of a district,* or other officer invested with the full powers of a Magistrate,† or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, walled enclosure, room, or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, walled enclosure, room, or place ;

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming ;

and may seize, or authorize such officer to seize, all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used, or intended to be used, for the purpose of gaming, which are found therein ;

and may search or authorize such officer to search, all parts of the house, walled enclosure, room, or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody ;

and may seize, or authorize such officer to seize, and take possession of alll instruments of gaming found upon such search.

* For power of Local Government to authorize Magistrate of the second class to exercise the powers conferred by sec. 5 on the Magistrate of the district, see Act XVI. of 1884, sec. 5.

† Now the District Magistrate or a Magistrate of the first class.—See Act X. of 1882, sec. 3.

6. When any cards, dice, gaming-tables, cloths, boards, or other instruments of gaming, are found in any house, walled enclosure, room, or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room, or place, is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Penalty on persons arrested for giving false names and addresses.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping gaming-house, instruments of gaming to be destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room, or place entered, under the provisions of this Act, to require any such persons to be examined on

Magistrate may require any person apprehended to be sworn and give evidence.

oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room, or place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such house, walled enclosure, room, or place, or any part thereof, of any Magistrate, or officer authorized as aforesaid.

No person so require to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill, wherever played.

Gaming and setting birds and animals to fight in public places.

13. A police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters, or other instruments of gaming, used in playing any game not being a game of mere skill, in any "street or thoroughfare, or place to which the public have access,"* situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place, or thoroughfare, situated within the limits aforesaid, or

* The words quoted have been substituted by Act XVI. of 1884, sec. 6, for the words "public street, place, or thoroughfare," as originally enacted.

any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ;

and such police-officer may seize all instruments of gaming found in "such public place,"* or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

Destruction of instruments of gaming found in public places.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

Offences by whom triable.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882,† as to the amount of fine or imprisonment he may inflict.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description :

Penalty for subsequent offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Portion of fine may be paid to informer.

17. All fines imposed under this Act may be recovered in the manner prescribed by sections 386, 387, and 389 of the Code of Criminal Procedure, 1882,‡ and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

Recovery and application of fines.

* The words "such place" have been substituted by Act XVI. of 1884 sec. 6, for the words "such public place," as originally enacted.

† See Act X. of 1882, secs. 3, 32, 34, and 446.

‡ The sections of the new Code cited in sec. 17 have been substituted for sec. 307. of Act X. of 1872.—See Act X. of 1882, sec. 3.

ACT NO. XVI. OF 1884.*

RECEIVED THE G.-G.'S ASSENT ON THE 3RD OCTOBER 1884.

An Act to provide more effectually for the suppression of certain forms of Gaming in Lower Burma.

WHEREAS it is expedient to provide more effectually for the suppression of certain forms of gaming in Lower Burma; It is hereby enacted as follows :—

Short title, extent, and commencement.

1. (1) This Act may be called "The Burma Gaming Act, 1884."

(2) It extends to all the territories† for the time being under the administration of the Chief Commissioner of Lower Burma;† and

(3) It shall come into force at once.

Application of Act III. of 1867 to game of *ti* and like games.

2. (1) Taking part in the game of "*ti*," or in any other game or pretended game of a like nature, shall be deemed gaming and playing within the meaning of Act III. of 1867.‡

(2) Every house, walled enclosure, room, or place, whether public or private, where any such game or pretended game is carried on, shall, for the purpose of that Act, be deemed a common gaming-house, and all expressions referring to the use of any such house, enclosure, room, or place as a common gaming-house, shall include the use thereof for any such game or pretended game on a single occasion.

(3) All boxes, receptacles, lists, papers, tickets, and forms used for the purpose of any such game or pretended game, shall be deemed instruments of gaming within the meaning of the said Act.

Penalty on conducting game of *ti* and like games.

3. Whoever conducts or assists in conducting the game of "*ti*," or any other game or pretended game of a like nature, as manager, stakeholder, or *daing*, or who is, according to the rules of the game or pretended game, entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes, after deducting the amount payable to the successful player or players, or who promotes the game or pretended game by

*This Act has been declared in force in Upper Burma (except the Shan States).—See the Upper Burma Laws Act (XX. of 1886), Sch.II., Pt. 1.

† The territories are now known as Lower Burma.—See the Upper Burma Laws Act (XX. of 1886), sec. 2 (1) (*b*); and the Chief Commissioner is styled Chief Commissioner of Burma.—See Proclamation, dated 25th September 1886, Gazette of India, 25th *idem*, Pt. I., p. 539.

‡ See *supra*, p. 147.

soliciting or collecting stakes or otherwise, shall be punished with imprisonment for a term which may, for a first offence, extend to six months, and, for a subsequent offence, to two years, or with fine, or with both.

Power to extend local application of Act III. of 1867 within Burma.

4. (1) The Chief Commissioner may from time to time, by notification published in the official Gazette, extend to the whole or any part of the territories for the time being under his administration any such of the provisions of Act III. of 1867 as do not for the time being extend thereto.

(2) From the date of any such extension so much of any rule having the force of law in operation in the territories to which the extension is made as is inconsistent with or repugnant to any provision so extended shall cease to have effect in those territories.

Power to invest 2nd class Magistrates with powers under Act III of 1867, section 5.

5. The Local Government may authorize any Magistrate of the second class to exercise the powers conferred by section 5 of Act III. of 1867 on the Magistrate of the district.

Amendment of Act III. of 1867, section 13.

6. In section 13 of Act III. of 1867—

(*a*) for the words "public street, place, or thoroughfare," where they first occur, the words "street or thoroughfare or place to which the public have access," shall be substituted ; and

(*b*) in the last clause for the words "such public place" the words "such place" shall be substituted.

Power to arrest without warrant.

7. A police-officer may arrest without warrant any person soliciting or collecting stakes for the game of *ti*, or any other game or pretended game of a like nature, in any street or thoroughfare or place to which the public have access.

Power to demand security.

8. Whenever a District Magistrate, Sub-divisional Magistrate or, when he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, receives information that any person within the local limits of his jurisdiction earns his livelihood, wholly or in part, by carrying on, or assisting in carrying on, the game of *ti* or any other game or pretended game of a like nature, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure ; and for the purposes a of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

NOTES UNDER THE GAMBLING LAWS.

On a reference by a Sessions Judge, where certain persons were found guilty of gaming by a Full-power Magistrate solely on the evidence of a person supposed to have been concerned in the offence, whom the Magistrate had pardoned, *held* that a Magistrate has no power to tender a pardon in a case which he tries himself, but only, under sec. 209 of the Criminal Procedure Code, in the case of an offence triable by the Court of Session. —3 Bom. H. C. R., 59.

A person apprehended by the police, and brought before the Magistrate with the accused, is, though not discharged by the Magistrate, a competent witness against the accused, provided he be not charged along with the accused. Conviction of keeping a common gaming-house upheld, where portion of the evidence against the accused consisted of instruments of gaming found in such house, which had been entered in pursuance of a search-warrant illegally issued, there being sufficient evidence *aliunde* to justify the conviction.—5 Bom. H. C. R., 1.

The gist of the offence under sec. 4 of Act III. of 1867 consists in the fact that the house in which the gambling takes place is "a common gaming-house." The gist of the offence under sec. 13 is "the gambling in a public street or place." Gambling in a private house is not an offence under the Act.—2 N.-W. P. H. C. R., 289.

A common gaming-house is one which is kept or used for profit or gain, and may constitute a public nuisance ; but it cannot be held, in the absence of evidence of any actual annoyance to the public, that every person who admits gamblers into his house, and all persons who game therein, are guilty of a public nuisance within the meaning of sec. 268 of the Penal Code.—7 Bom. H. C. R., 74.

To authorize an entry or search of a house under sec. 5 of Act III. of 1867, there must be credible information before the Magistrate or Police-officer who may take action under such section that the house is a common gaming-house. Unless a house is entered or searched under the provisions of sec. 5, the finding of cards, dice, &c., therein, will not be *prima facie* evidence for the purposes mentioned in Act III. of 1867.—2 N.-W. P. H. C. R., 476.

Gambling is not ordinarily punishable as an offence ; it is only so punishable when carried on in a common gaming-house, or in a public street or place.—3 N.-W. P. H. C. R., 1.

A warrant issued under sec. 58 of Act XIII. of 1856 should addressed to some one or more inspectors, and not generally to "all constables and peace-officers." Where a warrant in the latter form was executed under the direction of an inspector, it was held that the error in the form of the warrant was merely an error of procedure, and did not affect the validity of the conviction, under sec. 57, of persons apprehended in pursuance of the warrant so executed. *Held* on the evidence that there was sufficient to show that the house in which the prisoners were arrested was a common gaming-house. A person is "found gaming," within the meaning of sec. 57 of Act XIII. of 1856, who, having been *seen* gaming by an Inspector of police, is shortly afterwards, in a place adjoining the room in which he was seen gaming, apprehended by police-constables acting under the direction of such inspector.—8 Bom. H. C. R., 1.

Gaming is not punishable by law unless it be carried on in public places or thoroughfares, or in common gaming-houses. Common gaming-houses are houses in which instruments of gambling are kept or used for the profit or gain of the owner or occupier, whether by way of charge for the use of the instrument of gaming, or of the houses, or otherwise howsoever.—3 N.-W. P. H. C. R., 134.

The notification which the Government is empowered to issue under sec. 2 of the Gaming Act, II. of 1867 (B. C), should specify the limits of any town to which it is intended the Act should apply, and must be published in three consecutive Gazettes. Where a first notification, which extends the Act to a town with specification of limits to which it was intended to be applied, was published only once, and a subsequent notification, published three times, extended the Act to the town without specifying the limits to which the Act was to apply, it was *held* that the subsequent notifications were not sufficient, but that did not prevent the operation of the Act in places which are shown to be undoubtedly within the town according to its ordinary designation.—21 W. R, 23.

Where a police-officer, unauthorized by a Magistrate or District Superintendent of Police, enters and searches an alleged gaming-house, and arrests persons found therein, a Magistrate is justified in convicting such persons, if it is proved, without resorting to the presumption created by Beng. Act II. of 1867, sec. 6, that the house is a gaming-house.—I. L. R., 4 Cal. 650.

A Deputy Inspector of police is not authorized to enter and search an alleged gaming-house, unless he receives authority so to do from a Magistrate or a District Superintendent of Police. Where such an unauthorized entry and subsequent arrest of persons in a gaming-house takes place, there being no other evidence of an offence under sec. 5 of Act II. of 1867, a Magistrate has no evidence before him on which he can convict. The evidence required cannot be presumed under sec. 6 of the Act, because that presumption only arises when the proceedings are authorized by sec. 5.—4 Cal. 710.

A coin is not an instrument of gaming, within the meaning of sec. 11 of Bom. Act III. of 1866. An instrument of gaming means an implement devised or intended for that purpose.—6 Bom. 19.

The lessee of a house, who permitted disorderly people to use it for gambling, and thereby caused annoyance to the public, was convicted of an offence under the Penal Code, sec. 290. It appeared, however, that the accused had not engaged the house with the object of letting it out as a gaming-house. *Held* that the conviction was right.—14 Madr. 364.

A coin is not an "instrument of gaming" within the meaning of sec. 12 of Bom. Act IV. of 1887 as amended by Bom. Act I. of 1890. The expression "instrument of gaming," as used in sec. 12 of the Act of 1887, means an implement devised or intended for that purpose. Imperatrix *v.* Vithal (I. L. R., 6 Bom. 19) followed.—16 Bom. 283.

FEMALE INFANTICIDE.

ACT NO. VIII. OF 1870.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH MARCH 1870.

*An Act for the prevention of the murder of Female Infants.**

Preamble.

WHEREAS the murder of female infants is believed to be commonly committed in certain parts of British India; and whereas it is necessary to make better provision for the prevention of the said offence; It is hereby enacted as follows:—

Power to take measures under Act in particular districts.

1. If it shall appear to the Local Government that the said offence is commonly committed in any district, or by any class, or family, or persons residing therein, the Local Government may, with the previous sanction of the Governor-General of India in Council, declare, by notification published in the official Gazette, and in such other manner as the Local Government shall direct, that measures for the prevention of such offence shall be taken under this Act, in such district, or in respect of such class, or family, or persons.

The notification shall define the limits of such district, or shall specify the class, or family, or persons to whom such notification is to be deemed to apply.

Power to make rules.

2. When such notification shall have been published as aforesaid, it shall be lawful for the Local Government, subject to the provisions of section 3, from time to time to make rules,† consistent with this Act, for all or any of the following purposes:—

(1.)—For making and maintaining registers of births, marriages, and deaths occurring in such district, or in or among the class, family, or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district:

(2.)—For the entertainment of any police-force in excess of the ordinary fixed establishment of police, or for the entertainment of any

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*Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV of 1874.

† *See* the N.-W. P. Rules, *Gazette of India*, Feb. 11, 1871, p. 76: Oudh Rules, *ibid*, May 11, 1872, p. 523: Bombay Rules as to the Lewa and Karwa Kanbi Castes in the Ahmadabad and Kaira Districts, *Bombay Government Gazette*, Extraordinary, April 15, 1871, p. 453; Sep. 25, 1873, p. 786.

officers or servants, for the purpose of preventing or detecting the murder of female infants in such district, or in or among such class, family, or persons, or for carrying out any of the provisions of this Act :

(3.)—For prescribing how and by whom information shall be given to the proper officers of all births, marriages, and deaths occurring or about to occur in such district, or in or among such class, family, or persons :

(4.)—For the regulation and limitation of expenses incurred by any person to whom such notification applies, on account of the celebration of marriage or of any ceremony or custom connected therewith :

(5.)—For regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable :

(6.)—For defining the duties of any officer or servant appointed to carry out any rule made under this section.

Confirmation and publication of rules.

3. No rule or alteration made under section 2 shall take effect, until it shall have been confirmed by the Governor-General of India in Council, and published in the *Gazette of India* and also in the local Gazette.

Copies of every such rule shall be affixed in such places, and shall be distributed in such manner, as the Local Government may direct.

Punishment for breach of rules.

4. Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Saving of prosecutions under other laws.

5. Nothing in this Act, or in any rule made and published as aforesaid, shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act : Provided that no person shall be punished twice for the same offence.

Power to place neglected children under supervision.

6. If it appears to the Magistrate of the district that any person, to whom the notification mentioned in section 1 applies, neglects to make proper provision for the maintenance of any female child for whose maintenance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the

child under such supervision as he may think proper, and shall, if necessary, remove the child from the custody of such person.

The Magistrate of the district may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding fifty rupees as to such Magistrate shall seem reasonable, and if such person wilfully neglects to comply with such order, such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by sections 386 and 387* of the Code of Criminal Procedure.

Nothing in this section shall affect the powers of a Magistrate under section 488,* of the same Code.

Extent of Act.

7. This Act shall, in the first instance, extend only to the North-Western Provinces, to the Panjab, and to Oudh; but the Governor-General of India in Council may, by order, extend it to any part of the territories (other than Oudh) under the immediate administration of the Government of India; and the Governor of Madras in Council, the Governor of Bombay in Council and the Lieutenant Governor of Bengal, may severally, by order, extend it to any part of the territories under their respective Governments.

Every order under this section made by the Governor-General of India in Council shall be published in the *Gazette of India*. Every other order made under this section shall be published in the local official Gazette.

*See Act X. of 1882, sec. 3.

CATTLE-TRESPASS.

ACT NO. I. OF 1871.

RECEIVED THE G.-G.'s ASSENT ON THE 13TH JANUARY 1871.

*An Act to consolidate and amend the law relating to Trespasses by Cattle.**

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

Preamble.

CHAPTER I.

PRELIMINARY.

Title and extent.

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

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

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

Repeal of Acts.

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

References to repealed Acts.

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

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

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* This Act has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX. of 1886.

It has also been extended to the Haidarabad Assigned Districts (*Gazette of India*, 4th March 1871, p. 137) and to Mysore (*Gazette of India*, 6th April 1872, p. 377).

Act XVIII. of 1883 (*to amend the Cattle trespass Act*, 1871) is repealed by Act I. of 1891 (*an Act to amend the Cattle trespass Act*, 1871, *and to incorporate therein Act XVIII of* 1883); provided that orders which have been made and notified under that Act (*XVIII of* 1883) by the Local Government, and are in force immediately before the commencement of this Act (I. of 1891), shall be deemed to have been made under the Cattle-trespass Act, 1871, as amended by Act I. of 1891.—See Act I. of 1891, sec. 10.

Any enactment or documents referring to the Cattle-trespass Act, 1871, or to Act XVIII. of 1883 to (*amend the Cattle-trespass Act*, 1871) shall be construed to refer to the Cattle-trespass Act, 1871, as amended by Act I. of 1891.—See Act I. of 1891, sec. 12.

† Sec. 1 has been substituted by Act I. of 1891.

‡ Repealed by this Act, sec. 2.

Interpretation-clause.

3. In this Act :—

'Officer of police' includes also village-watchman, and

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

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

'Local fund' means any fund under the control or management of a local authority.*

CHAPTER II.

POUNDS AND POUND-KEEPERS.

Establishment of pounds.

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

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

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

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

Appointment of pound-keepers.

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

Ex-officio pound-keepers in Madras and Bombay.

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

Suspension or removal of pound-keepers.

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

Pound-keepers may hold other offices.

Any pound keeper may hold simultaneously any other office under Government.

Pound-keepers to be 'public servants.'

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

* The last two paras. of sec. 3 have been added by Act I. of 1891.

Duties of Pound-keepers.

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

To keep registers and furnish returns.

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

To register seizures.

(*a*) the number and description of the animals,

(*b*) the day and hour on and at which they were so brought,

(*c*) the name and residence of the seizer, and

(*d*) the name and residence of the owner, if known,

and shall give the seizer or his agent a copy of the entry.

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

To take charge of and feed cattle.

CHAPTER III.

IMPOUNDING CATTLE.

10. The cultivator or occupier of any land,

Cattle damaging land.

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

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

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

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

Police to aid seizures.

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

Cattle damaging public roads, canals, and embankments.

* In sec. 10, the words quoted have been substituted for the words, "take them, or cause them to be taken, without unnecessary delay," by Act I. of 1891.

† As to the application of this section to reserved and protected forests, see Act VII. of 1878, sec. 69; to railways, see Act IX. of 1890, sec. 125.

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

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

Fines for cattle impounded.

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

Provided that, when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to tress-pass on land and damage crops or other produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification.§

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

List of fines and charges for feeding.

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

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

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

Procedure when owner claims the cattle, and pays fines and charges.

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

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* In sec. 11, the words quoted have been substituted for the words, "take them without unnecessary delay," by Act I of 1891.

† 7 Bom. C. C. 55.

‡ For power to prescribe a different scale for cattle impounded under sec. 69 of the Indian Forest Act, 1878, see Act VII. of 1878, sec. 70.

§ In sec. 12, the proviso has been added by Act I. of 1891.

¶ In sec. 12, the last paragraph has been added by Act I. of 1891.

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

Procedure if cattle be not claimed within a week.

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

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

(*a*) the number and description of the cattle,

(*b*) the place where they were seized,

(*c*) the place where they are impounded,

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

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

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

Delivery to owner disputing legality of seizure, but making deposit.

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

Procedure when owner refuses or omits to pay the fines and expenses.

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

Deduction of fines and expenses.

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

Delivery of unsold cattle and balance of proceeds.

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

(*a*) the number of cattle seized,

(*b*) the time during which they have been impounded,

(*c*) the amount of fines and charges incurred,

(*d*) the number of cattle sold,

(*e*) the proceeds of sale, and

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

Receipt.

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

Disposal of fines, expenses, and surplus proceeds of sale.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

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

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

Application of fines and unclaimed proceeds of sales.

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

(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

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

Officers and pound-keepers not to purchase cattle at sales under Act.

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained, shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

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

CHAPTER V.*

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

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

Procedure on complaint.

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

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

Compensation for illegal seizure or detention.

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

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release, and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Release of cattle.

Recovery of compensation.

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

CHAPTER VI.

PENALTIES.

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

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

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

* Ch. V. has been substituted for the original by Act 1. of 1891.

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

Recovery of penalty for mischief committed by causing cattle to trespass.

25. Any fine imposed "under the next following section, or"* for the offence of mischief by causing cattle to trespass on any land, may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops or public roads by pigs.

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

The Local Government, by notification in the official Gazette, may, from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees,' or as if there were both such reference and such substitution.‡

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

Penalty on pound-keeper failing to perform duties.

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

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

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

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

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* In sec. 25, the words quoted have been inserted by Act I. of 1891.

† "Public road" here includes a railway.—See Act IX. of 1890, sec. 125.

‡ In sec. 26, the last two paragraphs have been added by Act I. of 1891.

CHAPTER VII.

SUITS FOR COMPENSATION.

Saving of right to sue for compensation.

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

Set-off.

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

CHAPTER VIII.*

SUPPLEMENTAL.

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

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

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

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

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

SCHEDULE.

(*See section 2.*)

Number and year.	Title of Act.
III. of 1857 ...	An Act relating to trespasses by cattle.
V. of 1860 ...	An Act to amend Act III. of 1857 (relating to trespasses by cattle).
XXII. of 1861 ...	An Act to amend Act III. of 1857 relating to trespasses by cattle).

* Chapter VIII. has been added by Act I. of 1891.

NOTES UNDER THE CATTLE-TRESPASS ACT.

The repealing section of Act XVII. of 1862 does not affect the power of a Subordinate Magistrate under sec. 13 of Act III. of 1857 (Cattle-trespass).—1 Bom. H. C. R., 100.

The latter portion of sec. 13 of Act III. of 1857 having been repealed by Act XVII. of 1862, *held* that the offences created by that section may be dealt with by the ordinary criminal tribunals, subject to the provisions of the Code of Criminal Procedure.—4 Bom. H. C. R., 13.

In the case of a conviction by a Subordinate Magistrate, under sec. 18 of Act III. of 1857, of a person who, through neglect, permitted a public road to be damaged, by allowing his pigs to trespass thereon, *held*, on a reference by the District Magistrate, that the conviction was not illegal, because the land damaged was a public road, as the right to use a public road is limited to the purposes for which the road is dedicated.—4 Bom. H. C. R., 14.

By virtue of sec. 21 of the Criminal Procedure Code (Act XXV. of 1861), a Subordinate Magistrate of the 1st class has jurisdiction to try an offence under sec. 18 of Act III. of 1857 (Cattle-trespass Act), there being no provision in that Act as to the authorities by which offences committed under it are to be tried.—5 Bom. H. C. R, 13.

In a case of public nuisance under sec. 290 of the Penal Code, it must be proved that injury, danger, or annoyance, has been caused either in regard to the enjoyment of property, or the exercise of a public right on the part of a portion of the community, or of any particular class of people. The fact that there is a special law (Act III. of 1857) to meet a particular offence (in this case cattle-trespass) does not prevent the punishment of the offenders under the Penal Code, if an offence which could have been rightly punished under the Penal Code was established.—9 W. R., 70.

In a case of forcibly rescuing cattle under sec. 13, Act III. of 1857 (Cattle-trespass), in which the accused did not summon any witnesses, it was held that, even if the accused wanted them summoned, the Magistrate, under sec. 262 of the Code of Criminal Procedure, need not have summoned them, unless persuaded that they were likely to give material evidence, and that they would not attend voluntarily.—10 W. R, 42.

The order contemplated by sec. 62 of the Code of Criminal Procedure is a particular and specific order addressed to a particular person or particular persons to do or abstain from a particular act or particular acts. That section does not empower a Magistrate to pass a general order to persons not to allow their cattle or horses to run at large on the public roads, nor can such an order be passed under Act III. of 1857 (Cattle-trespass), which applies only to injury done by cattle to crops, &c., and to the sides of public roads and embankments.—12 W. R., 36; 3 B. L. R., A. Cr., 45; S. C., 6 B L. R., 78n.

Certain persons were convicted under sec. 13, Act III. of 1857 (Cattle-trespass), and sentenced to fifteen days' imprisonment and a fine, or in default to imprisonment for the term of seven days. No provision is made in the Act for awarding imprisonment in default of payment of fine; but the prisoners were liable under the section to six months' imprisonment and a fine of Rs. 500. The High Court refused to interfere with the sentence passed.—Pro., Mar. 9, 1870, 5 Madr. H. C. R., App. 21.

A fine levied by a pound-keeper is not a punishment imposed on conviction for an offence, and it is an error to hold that a person cannot be tried for an offence under Act XXVI. of 1850, because he has paid a fine under sec. 6 of Act III. of 1857 (Cattle-trespass). —7 Bom. H. C. R., 55.

To render a person liable under sec. 425 of the Penal Code for mischief in consequence of damage done by cattle-trespass, he must in some way have caused the cattle to enter the prosecutor's fields, knowing that by so doing he is likely to cause damage. Mere neglect to keep the cattle from straying is not sufficient.—14 W. R., 31 ; 6 B. L. R., App. 13.

The illegal seizure and detention of cattle, to which sec. 14 of Act III. of 1857 (Cattle-trespass) refers, is not an "offence" within the meaning of sec. 31 and sch. 2, art. I, cl. *b*, of the Court-fees Act (VII. of 1870). Complaints of such illegal seizure and detention do not require a stamp. If such complaints be stamped, it is not competent for the Court to direct that the accused shall repay the amount of such stamp to the complainant.—8 Bom. H. C. R., 22.

Where a prisoner was properly convicted on the evidence of illegally seizing cattle, but was sentenced under the old law (Act III. of 1857) when that Act had been repealed by Act I. of 1871, the High Court declined to interfere with the sentence, as the latter Act was in force at the time of the conviction and sentence, and no injustice had been done.—16 W. R., 12.

Where a sub-inspector of police was charged with having purchased a pony which had been impounded, it was *held* that the Magistrate should have proceeded under sec. 19, Act I. of 1871, taken with sec. 169 of the Penal Code, and that the accused could not be convicted, under sec. 406 of the Penal Code of criminal breach of trust.—16 W. R., 52 ; 8 B L. R , Ap. 1.

Where a Magistrate convicted, under sec 27 of Act I of 1871, a person who was not himself a pound-keeper, but was merely entertained by the police-patil, who was *ex officio* pound-keeper under sec. 6 of the Act, the High Court annulled the conviction and sentence passed upon the accused. —9 Bom. H. C. R., 164.

Sec. 22 of Act I. of 1871 (Cattle-trespass) does not provide for a fine in addition to compensation.—Pro., Aug. 1, 1873, 7 Madr. H. C. R., Ap. 24.

Where there was a dispute as to the ownership of land on which the complainant's cattle were found, the complainant stating the land belonged to A, who gave him the right to graze his cattle there, and the party charged (who had seized and impounded the cattle) claiming the land as his own, it was held that the order of the Magistrate, referring the parties to the Civil Court, was illegal, and that he should have disposed of the case himself under the Cattle-trespass Act (I. of 1871), sec. 22.—23 W. R , 2.

The illegal seizure of cattle, under sec. 22 of the Cattle-trespass Act (I. of 1871), is not a criminal offence. The law allows certain Magistrates to adjudicate compensation to a party injured by an illegal seizure. Court-fees paid by the complainant may form part of such compensation. It is, not lawful to pass sentence of fine or of imprisonment in default of payment of the compensation awarded in a matter under sec. 21 of the Cattle-trespass Act (I of 1871).—2 C. L. R., 507.

A Magistrate, having, under sec. 22 of the Cattle-trespass Act, 1871 adjudged a seizure of cattle to be illegal, directed the captor, under sec. 31 of the Court-fees Act, 1870, to pay the complainant the costs of the stamp and process-fees incurred in prosecuting the complaint. *Held* that sec. 31 of

the Court-fees Act did not apply. *Held* also that, under sec. 22 of the Cattle-trespass Act, such costs could be awarded to the complainant as compensation for the loss caused by the seizure and detention of the cattle.—I. L. R., 7 Madr. 345.

The owner of an animal which strays on to another's land, and causes damage to the crop thereon, does not, unless he has wilfully driven it upon the land, commit the offence of mischief under sec. 426 of the Penal Code. —9 Bom. 173.

The illegal seizure of cattle under colour of the Cattle-trespass Act, 1871, not having been constituted an offence under that Act or otherwise, an award of compensation, under sec. 250 of the Code of Criminal Procedure, to the accused on such complaint, is illegal.—9 Madr. 102.

No appeal lies from an order passed under sec. 22 of the Cattle-trespass Act (I. of 1871), awarding compensation for illegal seizure of cattle. —10 Bom. 230.

In a case instituted upon complaint made under sec. 20 of the Cattle-trespass Act, the Magistrate acquitted the accused, and, being of opinion that the complaint was vexatious, directed the complainant to pay compensation to the accused as under sec. 250 of the Code of Criminal Procedure. *Held* that the act complained of was not an offence within the meaning of the Code of Criminal Procedure, and that the order awarding compensation was illegal.—9 Madr. 374.

A complaint was made against certain persons under sec. 20 of the Cattle-trespass Act of 1871, charging them with having illegally seized and detained the complainant's cattle. The Assistant Magistrate who heard the complaint found it to be false, and he ordered the complainant to pay Rs 20 as compensation to the accused, and in default to suffer simple imprisonment for 21 days. On application to the High Court, *held* that the order was illegal, and must be set aside.—13 Cal. 304.

Proceedings under sec. 22 of the Cattle-trespass Act are quasi-civil in their nature; a Magistrate being at liberty under that section to assess and enforce, in a summary manner, compensation for an injury for which a civil action might be brought. An order, therefore, for the payment of a sum as fine and compensation, passed against to persons under that section, which does not specify the proportionate amount payable by each, is good. —14 Cal. 175.

No appeal lies against an order made under sec. 22 of Act I. of 1871.—11 Madr. 359.

No appeal lies from an order under sec. 22 of Act I. of 1871, awarding compensation for illegal seizure of cattle. Queen Empress *v.* Laksma (I. L. R., 10 Bom. 230) followed.—15 Cal. 712.

A suit for compensation for wrongful seizure of cattle will lie in a Civil Court, the provisions of Act I. of 1871 being no bar to such a suit Nomaz mollah *v.* Lall Mohun Tagadgeer (15 W. R., 279) approved of. Aslem Kalia Durzi (2 C. L. R., 344) dissented from.—16 Cal. 159.

CORONERS ACT.

ACT NO. IV. OF 1871.

RECEIVED THE G.-G.'S ASSENT ON THE 27TH JANUARY 1871.

An Act to consolidate and amend the laws relating to Coroners.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency-towns ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Coroners Act, 1871."

Local extent.

[*Repealed by Act X. of* 1881.]

Commencement.

[*Repealed by Act XVI. of* 1874.]

Repeal of enactments.

2. [*Repealed by Act XII. of* 1873.]

CHAPTER II.

APPOINTMENT OF CORONERS.

Coroners of Calcutta and Bombay.

3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.*

Their appointment, suspension, and removal.

4. Every such officer shall be appointed and may be suspended or removed by the Local Government.†

Coroners to be 'public servants.'

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

Power to hold other offices.

6. Any Coroner may hold simultaneously any other office under Government.

Oath to be taken by Coroner.

7. [*Repealed by Act X. of 1873.*]

* Sec. 3 has been substituted by Act X. of 1881.

† The second paragraph of sec. 4 has been omitted, having been repealed by Act XII. of 1891.

CHAPTER III.

DUTIES AND POWERS OF CORONERS.

Jurisdiction to enquire into deaths.

8. When a Coroner "has reason to believe"* that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person, being a prisoner, has died in prison,

and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall enquire into the cause of death.

Every such enquiry shall be deemed a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

Coroner to be sent for when prisoner dies.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall, on conviction before a Magistrate, be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

Power to hold inquests on bodies within local limits wherever cause of death occurred.

10. Whenever an inquest ought to be holedn on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

Power to order body to be disinterred.

11.† A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

Summoning jury.

12. On receiving notice of any death mentioned in section 8, the Coroner shall summon five, seven, nine, eleven, thirteen, or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Inquest may be on Sunday.

Any inquest under this Act may be held on a Sunday.

Opening Court.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

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* The words quoted have been substituted for the words "is informed" by Act X. of 1881, sec. 5.

† Compare Act X. of 1882, sec. 176, para. 2.

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

Jurors to be sworn.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

View of body.

16. The Coroner shall then make proclamations for the attendance of witnesses, or, where the enquiry is conducted in secret, shall call in separately such as know anything concerning the death.

Proclamation for witnesses.

17. "It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall enquire of such circumstances and the cause of the death; and, if before or during the inquiry, he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest."*

Summoning witnesses.

"Any person disobeying such summons shall be deemed to have committed an offence under section 174, section 175, or section 176 of the Indian Penal Code, as the case may be."*

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act No. XV. of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners, and for service of process upon them*).

18. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest; and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

Post-mortem examinations.

Fees to medical witnesses.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Evidence to be on oath.

Evidence on behalf of accused.

* The first two clauses of sec. 17 have been substituted by Act X. of 1881, sec. 6, for the two clauses originally enacted.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

Interpreter.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness; and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

Questions suggested by jury.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness, and then procure his signature thereto.

Coroner to take down evidence in writing.

Any witness refusing so to sign shall be deemed to have committed an offence under section 180 of the Indian Penal Code.

Witnesses to sign depositions.

Every such deposition shall be subscribed by the Coroner.

Coroner to subscribe depositions.

For the purposes of section 26 of the Indian Evidence Act, 1872, a Coroner shall be deemed to be a Magistrate.*

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Adjournment of inquest.

Whenever the inquest is adjourned, the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

Juror's recognizances.

The amount of such recognizances shall in each case be fixed by the Coroner.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

Coroner to sum up to jury.

23. When the verdict is delivered, the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

Coroner to draw up inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

Contents of inquisition.

* This clause has been added by Act X. of 1881, sec. 7.

(1) where, when, and before whom, the inquisition is holden,

(2) who the deceased is,

(3) where is body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when, and by what means, the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

Procedure where verdict amounts to murder, culpable homicide, or killing by negligence.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or act, to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

Coroner to certify and deliver inquisition, depositions, and recognizances.

The Coroner shall certify and subscribe such recognizances, and shall, immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

Warrant against person accused.

26. The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused, and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

Power to accept bail.

27. In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder, or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next criminal sessions; and thereupon such person, if in custody of any officer of the Coroner's Court, or in any jail under a warrant of commitment issued by the Coroner, shall be discharged therefrom.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken.

Warrant for burial.

29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

Inquisitions not to be quashed for want of form.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Amendment of inquisition.

30. It shall no longer be the duty of the Coroner to enquire whether any person dying by his own act was or was not *felo de se*, to enquire of treasure-trove or wrecks, to seize any fugitive's goods, to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Cessation of jurisdiction as to treasure-trove, wrecks, &c.

Felo de se. A *felo de se* shall not forfeit his goods.

Deodands. Deodands are hereby abolished.

CHAPTER IV.

CORONERS' JURIES.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

Fine on juror neglecting to attend.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence, and trade or calling, of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

Certificate as to defaulting juror.

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the post-office, addressed as aforesaid and registered.

Service of copy of certificate.

Levy of fine.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

Jurors not to be twice summoned within the year.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

Jurors on inquest on prisoner.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison, and no prisoner confined therein, shall be a juror on such inquest.

CHAPTER V.

RIGHTS AND LIABILITIES OF CORONERS.

Coroner's salary.

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the Governor-General in Council.

Disbursement to be repaid.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury, and the like, shall be repaid to him by the Local Government.

Power to appoint deputy.

38. Every Coroner may, from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.*

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him.

Provided that no such deputy shall act for any such Coroner, except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Revocation of appointment.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Exemption from serving on juries.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror.

Privilege from arrest.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

* Certain words referring to the oath to be taken by the Coroner's deputy, which were repealed by Act X. of 1873, have been omitted.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

Penalty for failure to comply with Act.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted* after tender of sufficient amends.

Proceedings barred by tender.

FIRST SCHEDULE.—[*Repealed by Act XII. of 1873.*]

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at on the day of 18 , before E F, Coroner of , on view of the body of A B, then and there lying dead, upon the oath of G H, I J, K L., and M N, then and there duly sworn and charged to enquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [*or* by a majority of. [that the death of the said A B was caused, on or about the day of 18 , by [*here state the cause of death as in the following examples* :—

1. *Cases of homicide*]—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D, was justifiable [*or* accidental homicide].
—a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [*or* culpable homicide amounting to murder, *or* a rash *or* negligent act not amounting to culpable homicide.]
2. *Cases of accident*—falling out of a boat into the river Hugli, whereby he was drowned.
—a kick from a horse which fractured his skull, and ruptured blood-vessels in his head.
3. *Cases of suicide*]—shooting himself through the head with a pistol.
—arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*]—disease of the heart.
—apoplexy.
—sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of
G H, I J, K L, M N, O P (jurors).

* Certain words referring to the limitation of suits, which were repealed by Act [illegible] have been omitted.

ACT NO. X. OF 1881.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH FEBRUARY 1881.

An Act to amend the Coroners' Act, 1871, and for other purposes.

WHEREAS it is expedient to amend the Coroners' Act, 1871, in manner hereinafter appearing ; It is hereby enacted as follows*:—

Preamble.

Short title.
Commencement.

1. This Act may be called "The Coroners' Act, 1881," and shall come into force on the passing thereof.

2—4. [*Repealed by Act V. of* 1889.]

5. In section 8 of the Coroners' Act, 1871, for the words "is informed" the words "has reason to believe" shall be substituted.

Act IV of 1871, section 8, amended.

Section 17 of same Act amended.

6. For the first two clauses of section 17 of the Coroners' Act, 1871, the following shall be substituted, that is to say :—

[*See supra, p. 173.*]

7. To section 20 of the Coroners' Act, 1871, the following clause shall be added, that is to say : "For the purposes of section 26 of the Indian Evidence Act, 1872, a Coroner shall be deemed to be a Magistrate."†

Addition to section 20 of same Act.

ACT NO. V. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST MARCH 1889.

An Act to abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, the Coroners Act, 1881, and the Code of Criminal Procedure, 1882 ; It is hereby enacted as follows :—

1. This Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the *Fort St. George Gazette* appoint in this behalf.

Commencement.

Amendment of the Coroners Act, 1871.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely :—

3. "Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a

Coroners of Calcutta and Bombay.

* This preamble has been substituted by Act V. of 1889.

† Secs. 8 and 9 (which are omitted) have been repealed by Act X. of 1882.

Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay."

Amendment of the Coroners Act, 1881.

3. (1) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely :—

"Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing ; It is hereby enacted as follows :—"

(2) Sections 2, 3 and 4 of the Coroners Act, 1881, are hereby repealed.

NOTES UNDER THE CORONERS ACT.

The Coroner of Calcutta has no power to commit to prison pending an inquest. In cases when he has authority to commit, a commitment to the officer deputed to receive prisoners by the statute in force is valid, and it is not necessary that the commitment be directed to the Sheriff.—2 Ind. Jur., N. S., 101.

Where the Magistrate of a division held an inquiry, under sec. 135 of the Criminal Procedure Code, into the cause of the death of a person found dead under suspicious circumstances, and, without making a specific charge against any person, drew up a report embodying the result of his inquiry, and sent the report to the Magistrate of the district, and subsequently proceedings were taken against one of the witnesses, which ultimately resulted in an acquittal, *held* by the High Court that, there being nothing in the language of sec. 135 requiring the Magistrate holding such an inquiry either to make a report or to come to a finding, the report actually sent could not be considered as part of a judicial proceeding, and that, therefore, the High Court has no power to send for it under sec. 296 of the Criminal Procedure Code. No analogy exists between a Coroner's inquest and an inquiry into the cause of death under the Criminal Procedure Code. —I. L. R., 3 Cal. 742 ; 3 C. L. R., 59.

A Presidency Magistrate is competent to hold a preliminary inquiry into the case of an accused person who has been committed to the High Court by the Coroner under sec. 25 of Act IV. of 1871.—I.L.R., 16 Bom. 159.

PRISONERS ACT.

ACT NO. V. OF 1871.*

RECEIVED THE G.-G.'S ASSENT ON THE 27TH JANUARY 1871.

An Act to consolidate the laws relating to Prisoners confined by order of a Court.

Preamble.

For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Prisoners Act, 1871 :"

Local extent.

It extends to the whole of British India.†

2. [*Repealed by Act XII. of* 1873.]

II.—PRISONERS IN THE PRESIDENCY TOWNS.

Warrants and writs to be directed to police officers.

3. All writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary, or other criminal jurisdiction, shall be directed to, and executed by, any officer of police within the local limits of such jurisdiction.

Power to appoint Superintendents of Presidency Prisons.

4. The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.

All such officers appointed under any Act hereby repealed shall be deemed to be appointed under this Act.

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison; in Madras, the Superintendent of Prisons for the town of Madras; and in Bombay,‡ by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as 'the Superintendent.'

Superintendents to detain persons committed.

5. The Superintendent is hereby authorized and required to keep and detain all persons duly committed to his custody pursuant to the provisions of this

* This Act has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX. of 1886.

See *Gazette of India*, Oct. 22, 1881, Pt. I., p. 504; *ib.*, Sep. 23, 1876, Pt. I., p. 505.

† It has also been applied to the Haidarabad Assigned District.—Foreign Department Notification No. 67, dated 5th May 1871.

‡ *See Bombay Government Gazette*, 4th December 1873, p. 999.

Act, or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner, or other public officer lawfully exercising civil or criminal jurisdiction according to the exigency of any writ, warrant, or order by which such person has been committed, or until such person is discharged by due course of law.

Superintendents to return writs, &c., after execution or discharge.

6. The Superintendent shall forthwith, after the execution of every such writ, order, or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order, or warrant to the Court or other officer by which or by whom the same has been issued or made, together with a certificate endorsed thereon, and signed by the Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Delivery of persons sentenced to imprisonment or death.

7. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by the Superintendent, and returned by him to the High Court when executed.

Delivery for intermediate custody of persons sentenced to transportation or penal servitude.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

Order under Mutiny Act for intermediate custody.

9. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, an order for the intermediate custody of an offender sentenced by a Court-martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the Superintendent.

Committals by High Court in execution of a decree or for contempt.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by any officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent, together with a warrant of commitment.

Delivery of persons sentenced by Police Magistrate.

11. Whenever any person is sentenced by a Presidency Magistrate* for the town of Calcutta, Madras, or Bombay to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with a warrant of the Court.

Delivery of persons committed by Justice or Magistrate or Coroner for trial by High Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing him to have the body of such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant or commitment, in order that he may be dealt with according to law.

Custody, pending enquiries under Act XXIII. of 1861, section 8.

13. Pending any such enquiry as is mentioned in "section 350 of the Code of Civil Procedure,"† which the High Court considers it necessary to make, the defendent may be delivered by the officer of the said Court to the Superintendent, subject to "the provisions as to release on security contained in section 349 of the same Code;"†

and the Superintendent is hereby authorized and required to detain such defendant in safe custody, until he is re-delivered to the officer of the Court for the purpose of being taken before the said Court, in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

Delivery of persons arrested in pursuance of warrant of High Court or Small Cause Court.

14. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction,

or in pursuance of a warrant of any Court established in Calcutta, Madras, or Bombay under the Presidency Small Cause Courts Act, 1882,‡

or in pursuance of a warrant issued under section 3 of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or

* See Act X. of 1882, sec. 3.

† The words qouted have been substituted by Act XII. of 1891.

‡ See Act XV. of 1882, section 2.

made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction ;

and, if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court or a Judge thereof, at the next sitting of the said Court or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law ;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

Warrants under Regulations for confinement of State Prisoners.

15. Any warrant of commitment under Regulation III. of 1818 of the Bengal Code (*for the confinement of State Prisoners*), Regulation II. of 1819 of the Madras Code (*for the confinement of State Prisoners*), and Regulation XXV. of 1827 of the Bombay Code (*for the confinement of State Prisoners*), *and for the Attachment of the Lands of Chieftains and others, for Reasons of State*), may be directed to the Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV. of 1850 (*for the better Custody of State Prisoners*), and Act No. III. of 1858 (*to amend the law relating to the arrest and detention of State Prisoners*).

III.—PRISONERS IN THE MUFASSAL.

Officers in charge of prisons may give effect to sentences of certain Courts.

16. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras, and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor-General in Council, or of any Local Government.

Warrant of officer of such Court to be sufficient authority.

17. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Procedure where jailor doubts the legality of warrant sent to him for execution.

18. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case

such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Imprisonment in British India of persons convicted of certain offences in Native States.

19. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences :—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,
forgery, and
theft of cattle ;

or for an attempt to commit any of the above offences,

or for abetment, within the meaning of the Indian Penal Code, of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor-General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe :

Provided that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor-General in Council, is one of the presiding Judges.

Proviso.

20. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

Certificate of conviction. Copy of proceedings.

IV —CONVICTS SENTENCED TO PENAL SERVITUDE.

21. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor-General in Council, by general order, from time to time, directs ;

Persons sentenced to penal servitude where sent, and how dealt with.

and may, during such time, be kept to hard labour ;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

Intermediate imprisonment.

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Time of intermediate imprisonment to count in discharge of sentence.

22. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.

23. The Governor-General in Council may grant to any convict sentenced to be kept in penal servitude a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such conditions as to the Governor-General in Council seem fit.

Power to grant license to convict sentenced to penal servitude.

The Governor-General in Council may at any time revoke or alter such license.

Holder of license to be allowed to go at large.

24. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Apprehension of convict where license revoked.

25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

Execution of warrant.

26. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

Apprehended convict to be brought up for re-commitment.

27. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

Re-Commitment.

28. Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence, and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Penalty for breach of condition of the license.

29. If a license be granted under section 23 upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license,

or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable, upon conviction, to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—REMOVAL OF PRISONERS.

Removing from one jail to another in territories under same Local Government.

30.* When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector-General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment, or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

Removal of lunatic prisoners.

31.* (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of Act XXXVI. of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic

* Sec. 30. 31. and 32. have been substituted by Act X. of 1886. sec. 25.

asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor-General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand, and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council.

Removal of prisoners from territories under one Local Government to territories under another.

32.* When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison, under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment, or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

Governor-General in Council to appoint places to which persons sentenced to transportation shall be sent.

33.† The Governor-General in Council may, from time to time, appoint places within British India to which persons sentenced to transportation shall be sent; and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

Local Government to direct removal of such persons to places appointed.

Power to make rules as to convicts.

34. The Governor-General in Council may, from time to time, prescribe rules as to the following matters :—

* Sections 30, 31, and 32, have been substituted by Act X. of 1886, sec. 25.

† Section 33 has been substituted by Act IX. of 1882.

the classification of convicts;

their confinement, treatment, discipline, and employment;

their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and

the manner in which the proceeds (if any) of their employment shall be disposed of.

VII.—DISCHARGE OF CONVICTS.

Discharge of convicts recommended for pardon.

35. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

PRISONERS AMENDMENT ACT.

ACT NO. VII. OF 1894.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1894.

An Act to amend the Prisoners Act, 1871.

WHEREAS it is expedient to amend the Prisoners Act, 1871 ; It is hereby enacted as follows :—

Addition to section 1, Act V, 1871.

1. To section 1 of the said Act the following shall be added, namely :—

"Any reference in Part III or Part V of this Act to a prison or jail, or to imprisonment or confinement, may be read as referring to a reformatory or reformatory school or to confinement therein."

Repeal of section 9, Act V, 1871.

2. Section 9 of the said Act is hereby repealed.

Amendment of section 14, Act V, 1871.

3. In section 14 of the said Act, for the words "or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under the Presidency Small Cause Courts Act, 1882," the following shall be substituted, namely :—

"or in pursuance of a warrant of any Civil Court established in Calcutta, Madras or Bombay under any law for the time being in force."

Amendment of, and addition to, section 16, Act V, 1871.

4. (1) In section 16 of the said Act, for the words "acting under the authority" the words "acting, whether within or without British India, under the general or special authority" shall be substituted.

(2) To the same section the following shall be added, namely :—

"or, with the previous sanction of the Governor-General in Council in each case, to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal of any Native Prince or State under the suzerainty of Her Majesty :

"Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorized by name or by office in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor-General in Council."

Amendment of, an addition to, section 19, Act V, 1871.

5. (1) For the first fifty-one words of section 19 of the said Act the following shall be substituted, namely :—

"The Governor-General in Council or the Local Government may authorize the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, for the period specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State under the suzerainty of Her Majesty to imprisonment or transportation for any of the following offences :"

(2) In the same section, after the words "theft of cattle" the following shall be inserted, namely :—

"or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1879,"

(3) For the proviso to the same section the following shall be substituted, namely :—

"Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorized to act as such Judge by the Native Prince or State or by the Governor-General in Council."

Substitution of new section for section 30, Act V, 1871.

6. For section 30 of the said Act the following shall be substituted, namely :—

Removal from one jail to another in territories under same Local Government.

"30. When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector-General of Prisons may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement within the territories subject to the same Local Government."

Substitution of new section for section 32, Act V, 1871.

7. For section 32 of the said Act the following shall be substituted, namely :—

Removal of prisoners from territories under one Local Government to territories under another.

"32. When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement in British India."

PRISONS ACT.

ACT NO. IX. OF 1894.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND MARCH 1894.

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Prisons Act, 1894.

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

(3) It shall come into force on the first day of July, 1894.

(4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874, as amended by subsequent enactments.

Repeal.

2. (1) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act—

(1) "Prison" means any jail or place used permanently or temporarily under the generel or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police;

(*b*) any place especially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882 ; or

(*c*) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail ;

(2) " criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial :

(3) " convicted criminal prisoner " means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882, or under the Prisoners Act, 1871 :

(4) " civil prisoner " means any prisoner who is not a criminal prisoner :

(5) " remission system " means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails :

(6) " history-ticket " means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder :

(7) " Inspector-General " means the Inspector-General of Prisons :

(8) " Medical Subordinate " means an Assistant Surgeon, Apothecary or qualified Hospital Assistant : and

(9) " prohibited article " means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector-General.

5. An Inspector-General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary :

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor-General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

Temporary accomodation for prisoners.

7. Whenever it appears to the Inspector-General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Control, and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

Officers not to have business dealings with prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to be interested in prison-contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than

a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The Superintendent shall keep, or cause to be kept, the following records :—

(1) a register of prisoners admitted ;

(2) a book showing when each prisoner is to be released ;

(3) a punishment-book for the entry of the punishments inflicted on prisoners for prison offences ;

(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;

(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules under section 59 or section 60.

Medical Officer.

Duties of Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 60.

Medical Officer to report in certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector-General for information.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :—

(1) the day on which the deceased first complained of illness or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer was first informed of the illness,

(6) the nature of the disease,

(7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

(8) when the prisoner died, and

(9) (in cases where a post-mortem examination is made) an account of the appearances after death.

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector-General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical subordinate.

Responsibility of Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

19. The Jailer shall be not absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailers.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers.

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or caused to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate officers not to be absent without leave.

22. Officer subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Convict officers.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to be examined on admission.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and discharge of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical officer.

(2) No prisoner shall be removed from one prison to another unless the Medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners ;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not ;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Solitary confinement.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Prisoners under sentence of death.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

Maintenance of certain prisoners from private sources.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Restriction on transfer of food and clothing between certain prisoners.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

Employments of civil prisoners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

Employment of criminal prisoners.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

Employment of criminal prisoners sentenced to simple imprisonment.

CHAPTER VIII.

HEALTH OF PRISONERS.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

Sick prisoners.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as

Record of directions of Medical Officers.

the Local Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

Hospital.

39. In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

Visits to civil and unconvicted criminal prisoners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission ; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 60, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 42.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

45. The following acts are declared to be prison-offences when committed by a prisoner :—

(1) such wilfull disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;

(2) any assault or use of criminal force ;

(3) the use of insulting or threatening language ;

(4) immoral or indecent or disorderly behaviour ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

(7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority ;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;

(10) wilful damage to prison-property ;

(11) tampering with or defacing history-tickets, records or documents ;

(12) receiving, possessing or transferring any prohibited article ;

(13) feigning illness ;

(14) wilfully bringing a false accusation against any officer or prisoner;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official ; and

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(1) a formal warning :

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form ;

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor-General in Council ;

(5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months ;

(6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor-General in Council ;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor-General in Council ;

(8) separate confinement for any period not exceeding six months :

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and

to have his meals in association with one or more other prisoners ;

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government :

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

(10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners ;

(11) solitary confinement for any period not exceeding seven days :

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement :

Explanation.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11) ;

(13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

Plurality of punishments under section 46.

47. Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely :—

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section ;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement;

(3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable.

(4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the remission system.

Award of punishments under sections 46 and 47.

48. (1) The superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical Officer to certify to fitness of prisoner for punishment.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment-book.

51. (1) In the punishment book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, registe number and the class (whether habitual or not) to which he belongs.

the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offence.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46 :

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class : and

Provided also that no person shall be punished twice for the same offence.

Whipping.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

Offences by prison-subordinates.

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regu-

lation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Extramural custody, control and employment of prisoners.

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

Confinement in irons.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

Confinement of prisoners under sentence of transportation in irons.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

Prisoners not to be ironed by Jailer except under necessity.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer

of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

59. The Governor-General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor-General in Council may for the territories under its administration, make rules consistent with this Act—

(1) defining the Acts which shall constitute prison-offences ;

(2) determining the classification of prison offences into serious and minor offences ;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;

(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence ;

(5) for the award of marks and the shortening of sentences ;

(6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;

(7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;

(8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire ; and,

(9) generally, for carrying into effect the purposes of this Act.

Power of Local Government to make rules.

60. The Local Government may, subject to the control of the Governor-General in Council, make rules consistent with this Act—

(*a*) for the classification of prisons, and description and construction of wards, cells and other places of detention ;

(*b*) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;

(*c*) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;

(*d*) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;

(*e*) for the employment, instruction and control of convicts within or without prisons ;

(*f*) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(*g*) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(*h*) for regulating the disposal of the proceeds of the employment of prisoners;

(*i*) for regulating the confinement in fetters of prisoners sentenced to transportation;

(*j*) for the classification and the separation of prisoners.

(*k*) for regulating the confinement of convicted criminal prisoners under section 28;

(*l*) for the preparation and maintenance of history-tickets;

(*m*) for the selection and appointment of prisoners as officers of prisons;

(*n*) for rewards for good conduct;

(*o*) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire;

(*p*) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(*q*) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;

(*r*) for the appointment and guidance of visitors of prisons;

(*s*) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein; and,

(*t*) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

Exhibition of copies of rules.

61. Copies of rules, under sections 59 and 60 so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical Officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
		Acts of the Governor-General in Council.	
1856 ...	VIII ...	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870 ..	XXVI ...	Prisons Act, 1870	So much as has not been repealed.
1874 ...	XV ...	Laws Local Extent Act, 1874...	So much of Part (*b*) of the third schedule as relates to Act VIII of 1856.
1878 ...	XIV ...	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
1886 ...	XX ...	Upper Burma Laws Act, 1886.	So much as relates to Act XXVI of 1870.
1891 ...	XI ...	Repealing and Amending Act, 1891	So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.
		Acts of the Governor of Fort St. George in Council.	
1869 ...	V ...	Madras Jails Act, 1869 ...	So much as has not been repealed.
1882 ...	VII ...	Madras Jails Act Amendment Act, 1882	The whole.
1889 ...	II ...	An Act to amend the Madras Jails Act, 1869.	The whole.

THE SCHEDULE—(*continued*).

ENACTMENTS REPEALED—*continued*.

(*See section 2.*)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
		Acts of the Governor of Bombay in Council.	
1874 ...	II ...	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed, except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.
1882 ...	I ...	An Act to amend Bombay Act II of 1874	Section 3.
1883 ...	IV ...	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code	The whole.
1887 ...	I ...	An Act to further amend Bombay Act II of 1874 ...	The whole.
		Acts of the Lieutenant-Governor of Bengal in Council.	
1864 ...	II ...	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865 ...	V ...	An Act to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail.	So much as has not been repealed.

THE SCHEDULE—(*continued*).

ENACTMENTS REPEALED—*continued*.

(*See section* 2.)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
		Regulations made under the Statute 33 *Victoria, Chapter* 3.	
1872 ...	III ...	Santhal Parganas Settlement Regulation.	So much of the sch., (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865.
1874 ...	IX ...	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875 ...	II ...	Assam Prisons Regulation, 1875.	The whole.
1890 ...	I ...	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

CRIMINAL TRIBES.

ACT NO. XXVII. OF 1871.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1871.

An Act for the Registration of Criminal Tribes and Eunuchs.

WHEREAS it is expedient to provide for the registration, surveillance, and control of certain criminal tribes and eunuchs; It is hereby enacted as follows :—

Preamble.

Short title.

1. This Act may be called "The Criminal Tribes' Act, 1871."

Commencement.

[*Repealed by Act XVI. of* 1874, *sec. 1.*]

Local extent.

This section and section 20 extend to the whole of British India; the rest of this Act extends only to the territories under the governments of the Lieutenant-Governors of Bengal,† the North-Western Provinces, and the Punjab respectively, and under the administration of the Chief Commissioner of Oudh.

PART I.

CRIMINAL TRIBES.

Local Government to report what tribes should be declared criminal.

2. If the Local Government has reason to believe that any tribe, gang, or class of persons, is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor-General in Council, and may request his permission to declare such tribe, gang, or class, to be a criminal tribe.

Report to contain certain particulars.

3. The report shall state the reasons why such tribe, gang, or class, is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe the manner in which it is proposed that such tribe, gang, or class, shall earn its living when the provisions hereinafter contained have been applied to it.

* Under sec. 3 of the Scheduled Districts Act, 1874, this Act has been declared in force in the Districts of Hazaribagh, Lorhadaga, and Manbhoom, Pergunnah Dhalbhoom, and the Kolhan.

† The word "Bengal" in sec. 1 has been inserted by Act VII. of 1876, sec. 1.

4. If such tribe, gang, or class, has no fixed place of residence, the report shall state whether such tribe, gang, or class, follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang, or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based; and the report shall also specify the place of residence in which such wandering tribe, gang, or class, is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

Occupation of wandering tribe to be stated; also proposed residence and means of livelihood.

5. If, upon the consideration of any such report, the Governor-General in Council is satisfied that the tribe, gang, or class to which it relates, ought to be declared criminal, and that the means by which it is proposed that such tribe, gang, or class, shall earn its living, are adequate, he may authorize the Local Government to publish in the local Gazette a notification declaring that such tribe, gang, or class, is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang, or class.

Notification declaring tribe to be criminal.

6. No Court of Justice shall question the validity of any such notification, on the ground that the provisions hereinbefore contained, or any of them, have not been complied with; or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang, or class, specified therein.

Bar of jurisdiction of Courts in questions relating to notification.

7. When the notification mentioned in section 5 has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang, or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang, or class, or of any part thereof.

Register of members of such tribes.

The declaration of the Local Government that any such tribe, gang, or class, or any part of it, is resident in any district, shall be conclusive proof of such residence.

8. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang, or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register.

Procedure in making register.

Penalties for failing to appear, refusing, or giving false information.

9. Any member of any such tribe, gang, or class, who, without lawful excuse, the burthen of proving which shall lie upon him,—

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first part of section 174 or 176 or 177 of the Indian Penal Code, respectively, as the case may be.

Charge of register.

Reporting desirable alterations.

10. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure.

By whom alterations to be made.

Notice to persons affected.

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby.

Complaints of entries in register.

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit.

Every order for the erasure of any such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order of entry, retention, or erasure, passed by the said Magistrate on any such complaint, either on appeal by the person registered, or proposed to be registered, or otherwise.

Settlement of tribe in place prescribed by Local Government.

13. Any tribe, gang, or class, which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government.

Removal to other place.

14. Any tribe, gang, or class, which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence.

15. No tribe, gang, or class, shall be settled or removed under the provisions of this Act until such arrangements, as the Local Government shall, with the concurrence of the Governor-General in Council, consider suitable, have been made for enabling such tribe, gang, or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.

Arrangements to be made prior to settlement or removal.

16. When the removal of any persons has been ordered under this Act, the register of such person's names shall be transferred to the District Superintendent of Police of the District to which such persons are removed; and the Magistrate of the said district, and the Commissioner of the division in which it is situated, shall thereupon be empowered to exercise respectively the powers provided in sections 11 and 12.

Transfer of register of persons ordered to be removed.

17. The Local Government may, with the sanction of the Governor-General in Council, place any tribe, gang, or class, which has been declared to be Criminal, or any part thereof, in a reformatory settlement.

Power to place tribe in reformatory settlement.

18. The Local Government may, with the previous consent of the Governor-General in Council, make rules to prescribe

Power to make rules.

(1) the form in which the register shall be made by the said Magistrate;

(2) the mode in which the said Magistrate shall publish the notice prescribed in section 8, and the means by which the persons whom it concerns, and the headmen, village-watchmen, and land owners or occupiers of the village in which such persons reside, "or the agents of such landowners or occupiers,"* shall be informed of its publication;

(3) the mode in which the notice prescribed in section 11 shall be given;

(4) the limits within which persons whose names are on the register shall reside;

(5) conditions as to holding passes, under which such persons may be permitted to leave the said limits;

(6) conditions to be inserted in any such pass as to—

(*a*) the places where the holder of the pass may go or reside;

(*b*) the officers before whom, from time to time, he shall be bound to present himself;

(*c*) and the time during which he may absent himself;

* The words quoted have been inserted by Act VII. of 1876, sec 2.

(7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate or persons authorized by him that the persons whose names are on the register are actually present at given times within the said limits ;

(8) the inspection of the residences and villages of any such tribe, gang, or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave ;

(9) the terms upon which registered persons may be discharged from the operation of this Act ;

(10) the mode in which criminal tribes shall be settled and removed ;

(11) the control and supervision of reformatory settlements ;

(12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit ;

(13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted ; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove ;

(14) and generally to carry out the purposes of this Act.*

Penalties for breach of rules.

19. Any person violating any of the rules made under section 18 shall be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments ; and, on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, or with fine, or with whipping to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.

Arrest of registered person found beyond prescribed limits.

20. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said

* N.-W. Provinces Rules, *N.-W. Provinces Gazette*, 21st March 1874, p. 701 : Panjab Rules *Panjab Government Gazette*, 13th February 1873, p. 99.

rules, or in a place, or at a time, not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

may be arrested without warrant by any police-officer or village watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section: Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of village-headmen, village-watchmen, &c.

21. It shall be the duty of every village-headman and village-watchman in a village in which any persons belonging to a tribe, class, or gang, which has been declared criminal, reside, and of every owner or occupier of land on which any such persons reside, "or of the agent of any such owner or occupier,"* to give the earliest information in his power at the nearest police-station of—

(1) the failure of any such person to appear and give information as directed in section 8;

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every village-headman and village-watchman in a village, and of every owner or occupier of land, "or of the agent of such owner or occupier,"* to give the earliest information in his power at the nearest police-station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class, or gang.

Penalty for breach of such duties.

22. Any village-headman, village watchman, owner or occupier of land, "or the agent of such owner or occupier,"* who shall fail to comply with the requirements of section 21, shall be deemed to have committed an offence under the first part of section 176 of the Indian Penal Code.

Indemnity for past registrations and detentions.

23. [*Repealed by Act XII. of* 1876, *sec. 1.*]

* The words quoted have been inserted by Act VII. of 1876, sec. 2.

PART II.

EUNUCHS.

Register of eunuchs and their property.

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf:—

(*a*) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnaping or castrating children, or of committing offences under section 377 of the Indian Penal Code, or of abetting the commission of any of the said offences; and

(*b*) a register of the property of such of the said eunuchs as, under the provisions herein after contained, are required to furnish information as to their property.

'Eunuch' defined.

The term 'eunuch' shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

Complaints of entries in register.

25. Any person deeming himself aggrived by any entry made or proposed to be made in such register, either when the register is first made or subsequently, may complain to the said officer, who shall enter such person's name or erase it, or retain it, as he sees fit.

Every order for erasure of such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise.

Penalty on registered eunuch appearing in female clothes,

26. Any eunuch so registered, who appears, dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

or who dances or plays music, or takes part in any public exhibition, in a public street or place, or for hire in a private house,

or dancing in public, or for hire.

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Penalty on registered eunuch keeping boy under sixteen.

27. Any eunuch so registered, who has in his charge, or keeps in the house in which he resides, or under his control, any boy who has not completed the age of sixteen years, shall be punished with

imprisonment for a term which may extend to two years, or with fine, or with both.

Maintenance and education of boys whose parents cannot be found.

28. The Magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under section 27 may be employed in defraying the cost of such arrangements.

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed shall be defrayed.

Disabilities of registered eunuchs.

29. No eunuch so registered shall be capable—

(*a*) of being or acting as guardian to any minor,

(*b*) of making a gift,

(*c*) of making a will, or

(*d*) of adopting a son.

Power to require information as to registered eunuch's property.

30. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immoveable, of or to which he is possessed or entitled, or which is held in trust for him.

Penalty for refusing such information.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows, or has reason to believe, to be false, shall be deemed to have committed an offence under section 176 or 177 of the Indian Penal Code, as the case may be.

Rules for making and keeping up registers of eunuchs.

31. The Local Government may, with the previous sanction of the Governor-General in Council, make rules for the making and keeping up and charge of registers made under this Part of the Act.*

* N.-W. Provinces Rules, *N.-W. Provinces Gazette*, 20th July 1872, p. 845 : Panjab Rules, *Panjab Government Gazette*, 12th June 1873, p. 391.

EUROPEAN VAGRANCY.

ACT NO. IX. OF 1874.*

RECEIVED THE G.-G.'S ASSENT ON THE 7TH APRIL 1874.

An Act to consolidate and amend the law relating to European Vagrancy.

WHEREAS it is expedient to consolidate and amend the laws relating to persons of European extraction who wander in a destitute condition throughout India; It is hereby enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The European Vagrancy Act, 1874;"

Local extent.

It extends to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

And it shall come into force at once: Provided that sections 4 to 16 (both inclusive), 19, 20, 24, & 29, shall not come into force in Coorg, or in the Andaman and Nicobar Islands, or in any of the dominions of the Princes and States in India in alliance with Her Majesty not situate within the limits of any Presidency, Lieutenant-Governorship, or Chief Commissionership in British India, until such day or respective days as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Repeal of Acts.

2. Acts No. XXI. of 1869 (*to provide against European Vagrancy*) and No. XXVIII. of 1871 (*to amend the European Vagrancy Act, 1869*) are hereby repealed.

But all appointments and orders made, work-houses provided, certificates given, powers conferred, rules prescribed and exemptions granted under the former Act, shall be deemed to have been respectively made, provided, given, conferred, prescribed, and granted under this Act.

Interpretation-clause.

3. In this Act—

"Person of European extraction."

"Person of European extraction" includes—

* This Act has been declared in force in Upper Burma generally.—See the First Part of the Second Schedule to Act XX of 1886.

See *Gazette of India* 22nd October 1881, Pt. I., p. 504, *ibid.* 23rd September 1876, Pt. I., p. 505.

(*a*) persons born in Europe, America, the West Indies, Australia, Tasmania, New Zealand, Natal, or the Cape Colony;

(*b*) the sons and grandsons of such persons;

but does not include persons commonly called Eurasians or East Indians:

"Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence:

"Vagrant."

"Master of a ship" includes any person in charge of a decked vessel:

"Master of a ship."

And in Parts III. and V. of this Act "Magistrate" means, within the limits of the towns of Calcutta, Madras, and Bombay, a Presidency Magistrate,* and, outside those limits, a person exercising powers under the Code of Criminal Procedure* not less than those of a Magistrate of the second class.

"Magistrate."

PART III.

PROCEDURE.

4. Any police-officer may, within the limits of the towns of Calcutta, Madras, and Bombay, require any person who is apparently a vagrant to accompany him or any other police-officer to, and to appear before, the nearest Presidency Magistrate,* and may, without those limits, require any such person to accompany him or any other police-officer to, and to appear before, the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure.*

Power to require apparent vagrant to go before Magistrate.

5. The Presidency Magistrate* or Justice shall in such case, or in any other case where a person apparently a vagrant comes before him, make a summary inquiry into the circumstances and character of the apparent vagrant; and, if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect.

Summary inquire into vagrant's circumstances.

Declaration of vagrancy.

If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house, and shall draw up an order to that effect.

Order to go to work-house.

* See Act X. of 1882, sec. 3.

The vagrant shall then be placed in charge of the police for the purpose of being forwarded to the work-house, and the said order shall be a sufficient authority to the police for retaining him in their charge while he is on his way to the work-house, and to the Governor of the work-house for receiving and detaining such vagrant.

Forwarding vagrant to place of employment.

6. Where the officer making the inquiry mentioned in section 5 is of opinion that the vagrant is likely to obtain employment in any place subject to the Local Government, or (when the vagrant is in any part of the dominions mentioned in section (1) in any place subject to any adjacent Local Government, such officer may, in his discretion, forward the vagrant to such place in charge of the police, and draw up an order to that effect.

Such order shall be a sufficient authority to the police for retaining the vagrant in their charge while he is on his way to such place of employment.

Assistance to obtain employment.

7. Upon his arrival at the place of employment, the vagrant shall be taken before the nearest Presidency Magistrate* or Justice of the Peace exercising powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability assist the vagrant in seeking employment, and may, in the meantime, if he think fit, keep the vagrant in the charge of the police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by section 5.

Subsistence-allowance.

8. Every person while in charge of the police, whether before inquiry as to his vagrancy, or, while he is on his way, under section 5, to the work-house, or, under section 6, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem.

The Presidency Magistrate* or Justice before whom any vagrant is taken under section 7 may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The Local Government shall cause such allowance to be paid out of such funds at its disposal, and in such manner, as it may, from time to time, direct.

Power to give certificates.

9. Any Presidency Magistrate* or Justice of the Peace exercising powers as afore-

* See Act X of 1882, sec. 3.

said may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand, stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioning them), nothing in sections 4, 5, 6, and 7, shall apply to the holder of such certificate; and thereupon, so long as the certificate remains in force, nothing in sections 4, 5, 6, and 7, shall apply to such person within such limits as aforesaid.

Form of certificate.

Every such certificate shall be in the form set forth in the first schedule to this Act annexed, or as near thereto as circumstances will admit.

Power to invest certain officials with jurisdiction of Justices under sections 5, 7, 8, and 9.

10. The Local Government may, from time to time, by notification in the official Gazette, invest any Justice of the Peace, District Superintendent of Police, or Assistant District Superintendent of Police, with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising powers as aforesaid.

PART III.

GOVERNMENT WORK-HOUSES.

Provisions of Government work-houses.

11. The Local Government, with the previous sanction of the Governor-General in Council, may provide work-houses with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants;

or may, by writing under the hand of a Secretary to such Government, certify any building, or part of a building, not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the local official Gazette, and thereupon such building or part of a building shall, until the Local Government otherwise orders, be deemed a Government work-house under this Act.

Scale of diet.

The Local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentiaries.

Superintendence of work-houses.

12. Every such work-house shall be under the immediate charge of a Governor, who shall be appointed, and may be suspended or removed, by the Local Government.

Every such Governor shall, if the Local Government think fit, be subject to the orders of a Committee of Management appointed from time to time by such Government, or, in the absence of a Committee, to the orders of such officer as the Local Government from time to time appoints in this behalf.

Search of vagrants.

13. Every such Governor may order that any vagrant admitted to the work-house under his charge shall be searched and that the vagrant's bundles, packages, and other effects shall be inspected, and may direct that any money then found with or on the vagrant, shall be applied (subject to the orders of the Local Government) towards the expenses of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

Discipline.

14. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline as may, from time to time, be prescribed by the Local Government with the previous sanction of the Governor-General in Council.

The Local Government may authorize any Governor of a work house to punish (under or not under the supervision and direction of a Committee of Management, as the Local Government thinks fit) any vagrant who knowingly disobeys or neglects any such rule with any one of the following punishments (namely):—

(*a*) solitary confinement within the work-house for any time not exceeding seven days;

(*b*) solitary confinement within the work-house for any time not exceeding three days upon a diet reduced to such extent as the Local Government may prescribe;

(*c*) hard labour for any time not exceeding seven days;

(*d*) reduction of diet to such extent as the Local Government may prescribe for any time not exceeding five days;

or, in lieu of any such punishment, any such vagrant may, on conviction before a Magistrate of such disobedience or neglect, be punishable with rigorous imprisonment in jail for a term which may extend to three months.

Refusal to accept employment.

15. The Governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for the vagrants admitted thereto.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

PART IV.

REMOVAL FROM INDIA.

Removal of vagrants.

16. If, after the lapse of a reasonable time, no suitable employment is obtainable for any such vagrant, Local Government may either (when entered into such agreement as hereinafter mentioned) cause hi removed from British India in manne inafter provided, the cost of such remova ing paid by Government;

Cost of removal.

or it may cause sections 23 and 30 to be read to him, and may then release him.

Agreements with vagrants.

17. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council binding himself—

(*a*) to proceed to such port in British India as sha [redacted] mentioned in the agreement;

(*b*) there to embark on board such ship and at such time as is rected by an officer appointed in this behalf by the Local Govern of the territories in which such port is situate, for the purpose of removed from India at the expense of the said Secretary of Stat Council;

(*c*) to remain on board such ship until she has arrived at her por of destination; and

(*d*) not to return to India until five years have elapsed from the date of such embarkation.

Form of agreements.

Every such agreement* shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances admit.

Power to perform agreement.

18. The Local Government of the territories in which the said port is situate may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council.

* Certain words, which were repealed by Act I. of 1879, have been omitted. That Act exempts these agreements from stamp-duty.—See Sch. II., No. 2, cl. (*f*)

PART V.

PENALTIES.

19. Any person refusing or failing to accompany a police-officer to, or to appear before, a Presidency Magistrate* or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under section 4, may be arrested without warrant, and shall be punishable, whether he be or be not a European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both.

Refusal to go before Magistrate.

And any person, who, when required under section 4 to accompany a police-officer to, or to appear before, a Presidency Magistrate* or Justice of the Peace, commits an offence punishable under section 353 of the Indian Penal Code, may, whether he be or be not a European British subject, be tried by a Magistrate for such offence.

Assaulting police.

20. Any vagrant who escapes from the police while committed to their charge under the orders specified in sections 5 and 6,

Escaping from police.

or who leaves a work-house, under this Act, without permission from the Governor,

Quitting work-house without leave.

or who, having, with such permission, left a work-house for a limited time or a specified purpose, fails to return on the expiration of such time, or when such purpose has been accomplished or proves to be impracticable,

Failing to return to work-house.

shall, for every such offence, be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend two years.

21. Any person entering into an agreement under section 17, and failing to proceed in pursuance thereof to the port therein mentioned,

for ...ailing to proceed to ... of embarkation.

or refusing to embark when directed so to do under the same section,

...using to go on board thereof.

or escaping from the ship in which he has so embarked before she has reached her port of destination,

...ing from ship. ...a

...ll, for every such offence, be punishable, whether he be or be ...ropean British subject, on conviction before a Magistrate, ...ous imprisonment for a term which may extend to six months.

* See Act X. of 1882, sec. 8.

22. Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under section 17, unless specially permitted so to do by the Secretary of State for India, shall, for every such offence, be punishable, whether he be or be not a European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Returning to India.

23. Any person of European extraction found asking for alms when he has sufficient means of subsistence,

Begging.

or asking for alms in a threatening or insolent manner,

or continuing to ask for alms of any person after he has been required to desist,

shall be punishable, whether he be or be not a European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

24. Every person imprisoned under section 19, 20, 21, 22, or 23, shall, at the end of his term of imprisonment, be placed before the nearest Presidency Magistrate* or justice of the Peace exercising powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by sections 5 and 6.

Procedure on close of imprisonment.

The order of transmission shall certify the fact of the previous conviction.

25. Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony, or of an offence which, if committed in England, would be felony, shall, on conviction before a Magistrate, be liable, for every such person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and, in default of payment, imprisonment for any term not exceeding two months,

Penalty on ship master bringing European convicts to India.

unless the defendant satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give) that he had due enquiry as to the person so landed, or allowed to land, and had he had no reason to believe that such person had been convicts aforesaid.

The Governor-General in Council may, from time to time, part tification in the *Gazette of India*, exempt the operation of the former part of th

Power to exempt certain ship-masters.

* See Act X. of 1882, sec. 3.

1. That

the masters of any class of ships, on such terms as to the Governor-General in Council seems fit, and either in respect of all or of any of the persons on board such ships.*

The Governor-General in Council may, in like manner, revoke any exemption made under this section.

Recovery of fines.

26. All fines imposed under this Act may be recovered "in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts."†

Payment of fines.

All fines recovered under this Act shall be paid to the credit of the Government of India, or as the Governor-General in Council from time to time directs.

Prosecutions.

27. All prosecutions under this Act may be instituted and conducted by such officer as the Local Government from time to time appoints in this behalf.

Limits of jurisdiction.

28. In imposing penalties under this Part and Part III. of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure* in the case of offenders not being European British subjects.

Validity of proceedings where Magistrate is not the nearest.

29. No proceeding under this Act shall be deemed invalid by reason only that the Presidency Magistrate‡ or Justice before whom a person, apparently a vagrant, was required to appear, or before whom a person was placed under section 24, was not the nearest.

PART VI.

MISCELLANEOUS.

Privation of privileges for gu[illegible]uropean British subnder Criminal Pro- Code.

30. Any European British subject who, upon the summary enquiry mentioned in section 5, has been determined to be a vagrant, or who has been convicted under section 22 or section 23, shall, so long as he remains in India, be subject, beyond the

A[illegible] of the said towns, to the provisions of the Code of Criminal Pro- thereu[illegible]‡ (other than those contained in Chapter VIII.‡ of the same Code) [illegible]able to a European not being a British subject.

from any cause he is committed or held to bail by a Justice of [illegible]ce to take his trial before a High Court, he shall not be at li- [illegible]bject to the jurisdiction of such Justice of the Peace or High

te of India, 22nd October 1870, p. 728.

[illegible]rds quoted have been substituted for certain words which have been re- Act XII. of 1891.

‡ See Act X. of 1882, sec. 3.

Court on the ground of anything contained in the former part of this section:

Save as aforesaid, nothing herein contained shall be deemed to confer jurisdiction over European British subjects on Magistrates, who, if this Act had not been passed, would have had no such jurisdiction.

Liability of importers of Europeans or employers of soldiers becoming vagrants.

31. Whenever any person of European extraction lands in India, or, being a non-commissioned officer or soldier in Her Majesty's Army, leaves that Army in India, under an engagement to serve any other person, or any Company, Association, or body of persons in any capacity,

and whenever a sailor of European extraction, not being a British subject, is discharged from his ship in any British Indian port,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, or discharge from his ship, as the case may be, then the person, or Company, Association, or body, to serve whom he has so landed in India or left the Army, or, in the case of a sailor, the person who is, at the date of the discharge, the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Recovery of charges.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association, body, owner, or agent chargeable.

Liability of consignee in case of Europeans who arrive in charge of animals and become vagrants.

32. When any person of European extraction lands in India, being or having been during his passage to India, or from one Indian port to another, in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant, within one year after his arrival in India, then

the consignee of such animal,

or the agents in India for the sale of such animal,

or, if such consignee or agents cannot be found,

the agent to whom the ship in which such animal arrived in India was consigned,

shall be liable to pay to the Government the cost of such removal under this Act, and all other charges incurred by him in consequence of his becoming a vagrant.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

'Consignee' defined.

For the purposes of this section 'consignee' includes any person who undertakes to dispose of such animal for the benefit of the consignor, and

'Agent' defined.

'Agent' includes any person who undertakes the agency of such ship, though it may not have been consigned to him.

Evidence of declaration under section 5.

33. In any proceeding under this Part, a certified copy of the declaration recorded under section 5 shall be *prima facie* evidence that the European British subject named therein has been, upon the summary enquiry mentioned in that section, determined to be, and that he was at the date of the declaration, a vagrant.

Exercise of powers conferred on Local Government.

34. The powers and duties conferred and imposed by sections 16 and 18 on a Local Government may be exercised and performed by such class of officers as the Local Government, from time to time, by notification in the official Gazette, appoints in this behalf.*

Exercise in Native States of powers conferred on Magistrates, Justices, and Police.

35. The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the powers of a Magistrate of the first class, and police-officers respectively, may, in places beyond the limits of British India, be exercised nd performed by such persons respectively as the Governor-General n Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Power to make rules for guidance of officers.

36. The Governor-General in Council may, from time to time, make rules, consistent with this Act, for the guidance of officers in matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

* See N.-W. Provinces Gazette, 10th July 1875, p. 927.

THE FIRST SCHEDULE.

(*See section 9.*)

WHEREAS E F, of , a person of European extraction, and holder of this certificate, has appeared before me, and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1874, these are to certify that for the space of months from the date hereof, and within the Province [*or* District] of , nothing in sections, 4, 5, 6, and 7 of the same Act shall be deemed to apply to him, unless he is found asking for alms, in which case this certificate shall be void.

(Signed) G. H.

Dated this day of 18 .

Presidency Magistrate* for the Town of *or* Justice of the Peace for exercising the powers of a Magistrate for the class.

THE SECOND SCHEDULE.

(*See section 17.*)

ARTICLES OF AGREEMENT made this day of 18 , BETWEEN the Secretary of State for India in Council of the one part, and *C D*, of, &c. [*the vagrant*], of the other part: Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows :—

1. The said C D shall proceed forthwith to the port of [*the port of embarkation*].

2. The said C D shall there embark on board such ship and at such time as an officer appointed in this behalf by the Local Government shall direct.

3. The said C D shall remain on board such ship until she shall have arrived at her port of destination.

4. The said C D shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.

5. The said Secretary of State in Council shall defray the cost of the transit of the said C D to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship or his agent, for the passage of the said C D on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof A B (by order of the Governor-General of India in Council [*or* the Governor of in Council, *or* the Lieutenant-Governor of , *or* the Chief Commissioner of], on behalf of the said Secretary of State in Council), and the said C D have hereunto set their hands the day and year first above written.

* See Act X. of 1882, sec 3.

REFORMATORY SCHOOLS.

ACT NO. V. OF 1876.*

RECEIVED THE G.-G.'S ASSENT ON THE 29TH FEBRUARY 1876.

An Act to provide Reformatory Schools.

WHEREAS it is expedient to provide Reformatory Schools for male youthful offenders; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

Short title.

1. This Act may be called "The Reformatory Schools Act, 1876;"

Local extent.

It extends to the whole of British India;

And it shall come into force in each Province of British India on such day as the Local Government by notification in the official Gazette directs in that behalf.

Commencement.

Section 399 of Code of Criminal Procedure repealed.

2. On and from that day section 399 of the Code of Criminal Procedure† shall be repealed therein.

Interpretation-clause.

3. In this Act—

"Youthful offender" means any boy who, being at the time under the age of sixteen years, has been convicted of any offence punishable with imprisonment or transportation.

"Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector of Jails.

II.—Reformatory Schools.

Power to establish and discontinue Reformatory Schools.

4. With the previous sanction of the Governor-General in Council, the Local Government may—

(*a*) establish Reformatory Schools at such places as it thinks fit;

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules consistent with this act as the Local Government may from time to time prescribe in this behalf;

(*c*) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Requisites of schools.

5. Every school so established or used must provide—

(*a*) sufficient means of separating the inmates at night;

* This Act is based on 29 & 30 Vic. c. 117. See Gazette of India, October 22, 1881. Pt. I., p. 504.

† See Act X. of 1882, sec. 3.

(*b*) proper sanitary arrangements, water-supply, food, clothing, and bedding for the youthful offenders detained therein ;

(*c*) the means of giving such offenders industrial training ;

(*d*) an infirmary or proper place for the reception of such offenders when sick.

Inspection of schools.

6. Every Reformatory School shall, before being used as such, be inspected by the Inspector-General of Jails ; and, if he reports that the requirements of section 5 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, and the school shall thereupon be deemed a Reformatory School.

Every such school shall from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may from time to time prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatories.

7. Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, (*a*) under the age of sixteen years, and (*b*) a proper person to be an inmate of a Reformatory School, the Court may direct that, instead of undergoing his sentence, he shall be sent to a Reformatory School, and be there detained for a period which shall be not less than two years, and not more than seven years, and which shall be in conformity with any rules made under section 22 and for the time being in force.

The powers so conferred on the Court shall be exercised only by (*a*) the High Court, (*b*) the Court of Session, (*c*) a Magistrate of the first class, and (*d*) a Magistrate of Police or Presidency Magistrate in the towns of Calcutta, Madras, and Bombay.

Power of Magistrates to direct boys under sixteen sentenced to imprisonment to be sent to Reformatories.

8. Whenever any youthful offender under the age of sixteen years has been or shall be sentenced to imprisonment, the officer in charge of the jail in which such offender is confined may bring him before the Magistrate within whose jurisdiction such jail is situate ; and the Magistrate, if he thinks the offender (*a*) under the age of sixteen years, and (*b*) a proper person to be an inmate of a Reformatory School, may direct him to be sent to a Reformatory School, and to be there detained for a period which shall be not less than two and not more than seven years, and which shall be in conformity with any rules made under section 22 and for the time being in force.

"Magistrate" defined.

In this section "Magistrate" means, in the towns of Calcutta, Madras, and Bombay, a Magistrate of Police or Presidency Magistrate, and elsewhere a Magistrate of the first class.

Government to determine Reformatory to which such offenders shall be sent.

9. Every youthful offender so directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may from time to time appoint for the reception of youthful offenders so dealt with by such Court or Magistrate.

Boys above eighteen not to be detained in school.

10. Nothing contained in section 7, 8, or 9, shall be deemed to authorize the detention in a Reformatory School of any person after he is proved to be above the age of eighteen years.

Discharge or removal by order of Government.

11. The Local Government may at any time order any youthful offender—

(*a*) to be discharged from a Reformatory School ;

(*b*) if so discharged before the expiration of his sentence, to undergo the residue of such sentence at such place as the Local Government thinks fit ; or

(*c*) to be removed from one Reformatory School to another, such school situate within the territories subject to such Government, but so that the whole period of his detention in a Reformatory School shall not be increased by such removal.

III.—Management of Reformatory Schools.

Appointment of Superintendent and Committee of Visitors or Board of Management.

12. For the control and management of every Reformatory School, the Local Government shall appoint either (*a*) a Superintendent and a Committee of Visitors, or (*b*) a Board of Management.

Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be natives of India.

The Local Government may, from time to time, suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

Superintendent may license youthful offenders to employers of labour.

13. Every Superintendent so appointed may permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, by license under his hand, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a municipality, being an employer of labour, and willing to receive and take charge of him, on the condition that the employer shall keep such offender employed at some trade, occupation, or calling.

The license shall be in force for three months and no longer, but may, at any time before the expiration of the period for which the offender has been directed to be detained, be renewed from time to time for three months.

Cancellation of license.

14. The license shall be cancelled at the desire of the employer named in the license;

and, if it appears to the Superintendent that any complaint made by the employer of misconduct on the part of the youthful offender is just, no other license in respect of the same offender shall be given until twelve months after the expiration of the former license.

If complaint of employers just, no fresh license until expiry of twelve months.

15. If during the term of the license the employer named therein die, or cease from business, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

Determination of license.

16. If it appears to the Superintendent that the employer has ill-treated the offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Cancellation of license in case of ill-treatment.

17. The Superintendent of any Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX. of 1850 (*concerning the binding of apprentices*);

Superintendent to be deemed guardian of youthful offenders.

and if it appear to the Superintendent that any such offender licensed under section 13 has behaved well during one or more periods of his license, the Superintendent may apprentice him under the provisions of the said Act, and on such apprenticement the right to detain such offender in the school shall cease, and the unexpired term (if any) of his sentence shall be cancelled.

Power to apprentice youthful offender.

18. Every Committee of Visitors appointed under section 12 for any Reformatory School shall, at least once in every month,

Duties of Committee of Visitors.

(*a*) visit the school to hear complaints, and see that the requirements of section 5 have been complied with, and that the management of the school is proper in all respects;

(*b*) examine the punishment-book;

(*c*) bring any special cases to the notice of the Inspector-General; and

(*d*) see that no person is illegally detained in the school.

19. If, in exercise of the power conferred by section 12, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 13 to 17, both inclusive; and the license mentioned in section 13 may be under the hand of their Chirman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Powers of Board of Management.

20. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 4, clause (*b*), to be a Board of Management under this Act, and thereupon such body or managers shall have all the powers, and perform all the functions, of such Board of Management.

Power to appoint Trustees or other Managers of a school to be a Board of Management.

21. With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act to regulate—

Power of Board to make rules.

(*a*) the conduct of business of the Board ;

(*b*) the management of the school ;

(*c*) the education and industrial training of youthful offenders ;

(*d*) visits to and communication with youthful offenders ;

(*e*) punishments for offences committed by youthful offenders ;

(*f*) the granting of licenses for employment of youthful offenders.

In the absence of a Board of Management, the Local Government may, from time to time, make rules consistent with this Act, to regulate for any Reformatory School the matters mentioned in clauses (*b*), (*c*), (*d*), (*e*), and (*f*) of this section, and also the mode in which the Committee of Visitors shall conduct their business.

22. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the periods for which Courts and Magistrates may send youthful offenders to Reformatory Schools according to their ages, the nature of their respective offences, or other considerations.

Power of Government of India to make rules.

All rules made under this section shall be published in the *Gazette of India*.

IV.—Offences in relation to Reformatory Schools.

23. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

Penalty for abetting escape of youthful offender.

24. A police-officer may, without orders from a Magistrate, and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school, or from his employer, and take him back to such school or to his employer.

Arrest of escaped youthful offenders.

INDIAN ARMS ACT.

ACT NO. XI. OF 1878.

RECEIVED THE G.-G.'S ASSENT ON THE 15TH MARCH 1878.

An Act to consolidate and amend the law relating to Arms, Ammunition, and Military Stores.

WHEREAS it is expedient to consolidate and amend the law relating to arms, ammunition, and military stores; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

Short title.
Local extent.

1. This Act may be called "The Indian Arms Act, 1878;" and it extends to the whole of British India.

Savings.

But nothing herein contained shall apply to—

(*a*) arms, ammunition, or military stores on board any sea-going vessel, and forming part of her ordinary armament or equipment, or

(*b*) the manufacture, conversion, sale, import, export, transport, bearing, or possession of arms, ammunition or military stores by order of the Government, or by a public servant, or a volunteer enrolled under the Indian Volunteers' Act, 1869, in the course of his duty as such public servant or volunteer.

Commencement.

2. This Act shall come into force* on such day as the Governor-General in Council by notification in the *Gazette of India* appoints.

Repeal of enactments.

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions, and forms prescribed, under any enactment hereby repealed, shall be deemed to be respectively given, granted, made, published, and prescribed under this Act.

And all such authorities, permissions, licenses, and exemptions shall, except as otherwise provided by this Act, continue in force for the periods for which they may have been given or granted respectively or, where no such period is expressly fixed, for one year from the date on which this Act comes into force, and shall then cease to have effect.

Interpretation clause.

4. In this Act, unless there be something repugnant in the subject or context,—

* Came into force from Oct. 1, 1878.—See *Gazette of India*, June 29, 1878, Part I., p. 389.

"Cannon" includes also all howitzers, mortars, wall-pieces, mitrialleuses, and other ordiance and machine-guns, all parts of the same, and all carriages, platforms, and appliances for mounting, transporting, and serving the same:

"Arms" includes fire-arms, bayonets, swords, daggers, spears, spear heads, and bows arrows, also cannon and parts of arms, and machinery for manufacturing arms:

"Ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, guncotton, dynamite, lithofracteur, and other explosive or fulminating material, gunflints, gunwads, percussion-caps, fuses, and friction-tubes, all parts of ammunition, and all machinery for manufacturing ammunition, but does not include lead, sulphur, or saltpetre:

"Military stores," in any section of this Act as applied to any part of British India, means any military stores to which the Governor-General in Council may from time to time, by notification in the *Gazette of India*, specially extend such section in such part, and includes also all lead, sulphur, saltpetre, and other material to which the Governor-General in Council may from time to time so extend such section:

"License" means a license granted under this Act, and "licensed" means holding such license.

II.—Manufacture, conversion, and Sale.

5. No person shall manufacture, convert, or sell, or keep, offer, or expose for sale, any arms, ammunition, or military stores, except under a license and in the manner and to the extent permitted thereby.

Unlicensed manufacture, conversion, and sale prohibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section 27 of this Act shall, without unnecessary delay, give to the District Magistrate,* or to the officer in charge of the nearest police station, notice of the sale and of the purchaser's name and address.

III.—Import, Export, and Transport.

6. No person shall bring or take by sea or by land into or out of British India any arms, ammunition, or military stores, except under a license and in the manner and to the extent permitted by such license.

Unlicensed importation and exportation prohibited.

* See Act X. of 1882, sec. 3.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition ; but the Collecter of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon.

Importation and exportation of arms and ammunition for private use.

Explanation.—Arms, ammunition, and military stores, taken from one part of British India to another by sea or across intervening territory not being part of British India, are taken out of, and brought into, British India within the meaning of this section.

7. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms, ammunition, or military stores shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the Local Government.

Sanction of Local Government required to warehousing of arms, &c.

8. [*Repealed by Act XI. of* 1882, *sec.* 2 *and sch. 1. Re-repealed by Act XII. of* 1891.]

9. [*Repealed by Act XII. of* 1891.]

10. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*,—

Power to prohibit transport.

(*a*) regulate or prohibit the transport of any description of arms, ammunition, or military stores, over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(*b*) cancel any such notification.

Explanation.—Arms, ammunition, or military stores, transhipped at a port in British India, are transported within the meaning of this section.

Transhipment of arms.

11. The Local Government, with the previous sanction of the Governor-General in Council, may, at any places along the boundary-line between British India and foreign territory, and at such distance within such line as it deems expedient, establish searching-posts, at which all vessels, carts, and baggage-animals, and all boxes, bales, and packages in transit, may be stopped and searched for arms, ammunition, and military stores by any officer empowered by such Government in this behalf by name or in virtue of his office.

Power to establish searching stations.

12. When any person is found carrying or conveying any arms, ammunition, or military stores, whether covered by a license or not, in such manner, or under such circumstances as to afford just grounds of suspi-

Arrest of persons conveying arms, &c., under suspicious circumstances.

cion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant, apprehend him, and take such arms, ammunition, or military stores from him.

Procedure where arrest made by person not a Magistrate or a police officer.

Any person so apprehended, and any arms, ammunition, or military stores so taken, by a person not being a Magistrate or police-officer, shall be delivered over as soon as possible to a police-officer.

All persons apprehended by, or delivered to, a police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

IV.—Going armed and possessing Arms, &c.

Prohibition of going armed without license.

13. No person shall go armed with any arms except under a license and to the extent and in the manner permitted hereby.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate, police-officer, or other person empowered by the Local Government in this behalf by name or by virtue of his office.

Unlicensed possession of fire arms, &c.

14. No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a license, and in the manner and to the extent permitted thereby.*

Possession of arms of any description without license prohibited in certain places.

15. In any place to which section 32, clause 2, of Act No. XXXI. of 1860, applies at the time this Act comes into force, or to which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, specially extend this section, no person shall have in his possession any arms of any description except under a license and in the manner and to the extent permitted thereby.

Arms of which possession has become unlawful to be deposited at police station.

16. Any person possessing arms, ammunition, or military stores, the possession whereof by him has, in consequence of the cancellation or expiry of a license or by the issue of a notification under section 15, become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

If the owner of anything deposited under this section does not, within three years from the date on which such thing is so deposited, produce a license authorizing him to possess the same, and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

* In sec. 14, three paragraphs have been omitted, having been repealed by Act XII. of 1891.

Power to make rules as to licenses.

17. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted; and may, by such rules, among other matters—

(*a*) fix the period for which such license shall continue in force;

(*b*) fix a fee payable by stamp or otherwise in respect of any such license granted in a place to which section 32, clause 2, of Act No. XXXI. of 1862, applies at the time this Act comes into force, or in respect of any such license other than a license for possession granted in any other place;

(*c*) direct that the holder of any such license other than a license for possession shall keep a record or account, in such form as the Local Government may prescribe, of anything done under such license, and exhibit such record or account when called upon by an officer of Government to do so;

(*d*) empower any officer of Government to enter and inspect any premises in which arms, ammunition, or military stores, are manufactured or kept by any person holding a license of the description referred to in section 5 or section 6;

(*e*) direct that any such person shall exhibit the entire stock of arms, ammunition, and military stores in his possession or under his control to any officer of Government so empowered, and

(*f*) require the person holding any license or acting under any license to produce the same, and to produce or account for the arms, ammunition, or military stores covered by the same when called upon by an officer of Government so to do.

V.—Licenses.

Cancelling and suspension of license.

18. Any license may be cancelled or suspended—

(*a*) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any District Magistrate,* or Commissioner of Police in a Presidency-town, within the local limits of whose jurisdiction the holder of such license may be, when, for reasons to be recorded in writing, such officer, authority, Magistrate, or Commissioner, deems it necessary, for the security of the public peace, to cancel or suspend such license; or

(*b*) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; and

the Local Government may, at its discretion, by a notification in the local official Gazette, cancel or suspend all or any licenses throughout the whole or any portion of the territories under its administration.

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* See Act X. of 1882, sec. 3.

VI.—Penalties.

For breach of sections 5, 6, 10, and 13 to 17.

19. Whoever commits any of the following offences (namely) :—

(*a*) manufactures, converts, or sells, or keeps, offers, or exposes for sale, any arms, ammunition, or military stores, in contravention of the provisions of section 5 ;

(*b*) fails to give notice as required by the same section ;

(*c*) imports or exports any arms, ammunition, or military stores, in contravention of the provisions of section 6 ;

(*d*) transports any arms, ammunition, or military stores, in contravention of a regulation or prohibition issued under section 10 ;

(*e*) goes armed in contravention of the provisions of section 13 ;

(*f*) has in his possession or under his control any arms, ammunition, or military stores, in contravention of the provisions of section 14 or section 15 ;

(*g*) intentionally makes any false entry in a record or account which, by a rule made under section 17, clause (*c*), he is required to keep ;

(*h*) intentionally fails to exhibit anything which, by a rule made under section 17, clause (*e*), he is required to exhibit ; or

(*i*) fails to deposit arms, ammunition, or military stores, as required by section 14 or section 16,

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

For secret breaches of sections 5, 6, 10, 14 and 15.

20. Whoever does any act mentioned in clause (*a*), (*c*), (*d*), or (*f*) of section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or to any person employed upon a railway, or to the servant of any public carrier,

and whoever, on any search being made under section 25, conceals, or attempts to conceal, any arms, ammunition, or military stores,

For concealing arms, &c.

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

For breach of license.

21. Whoever, in violation of a condition subject to which a license has been granted, does, or omits to do, any act, shall, when the doing or omitting to do such act is not punishable under section 19 or section 20, be punished with imprison ment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For knowingly purchasing arms, &c., from unlicensed person.

22. Whoever knowingly purchases any arms ammunition, or military stores from any person not licensed or authorized under the proviso to section 5 to sell the same ; or

For delivering arms, &c., to person not authorized to possess them.

delivers any arms, ammunition, or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule.

23. Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Power to confiscate.

24. When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition, or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition, or military stores, and any vessel, cart, or baggage-animal used to convey the same, and any box, package, or bale in which the same may have been concealed, together with the other contents of such box, package, or bale, shall be confiscated.

VII.—Miscellaneous.

Search and seizure by Magistrate.

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition, or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition, or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person, or in which such Magistrate has reason to believe such arms, ammunition, or military stores, are or is to be found, and may seize and detain the same, although covered by a license, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by, or in the presence of, some officer specially empowered in this behalf by name or in virtue of his office by the Local Government.

Seizure and detention by Local Government.

26. The Local Government may at any time order or cause to be seized any arms, ammunition, or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Power to exempt.

27. The Governor-General in Council may, from time to time, by notification published in the *Gazette of India*,—

(*a*) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of British India, from the operation of any prohibition or direction contained in this Act; and

(*b*) cancel any such notification, and again subject the persons or things, or the part of British India comprised therein, to the operation of such prohibition or direction.

Information to be given regarding offences.

28. Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest police-officer or Magistrate; and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police-officer regarding any box, package, or bale in transit which he may have reason to suspect contains arms, ammunition, or military stores, in respect of which an offence against this Act has been or is being committed.

Sanction required to certain proceedings under section 19, clause (*f*).

29. Where an offence punishable under Section 19, clause (*f*), has been committed within three months from the date on which this Act comes into force in any province, district, or place to which section 32, clause 2, of Act XXXI. of 1860, applies at such date, or where such an offence has been committed in any part of British India not being such a district, province, or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the District Magistrate,* or, in a Presidency-town, of the Commissioner of Police.

Searches in the case of offences against section 19, clause (*f*), how conducted.

30. Where a search is to be made under the Code of Criminal Procedure 1882, in the course of any proceedings instituted in respect of an offence punishable under section 19, clause (*f*), such search shall, notwithstanding anything contained in the said Code, be made in the presence of some officer specially appointed by name or in virtue of his office by the Local Government in this behalf, and not otherwise.

Operation of other laws not barred.

31. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by this Act: Provided that no person shall be punished twice for the same offence.

Power to take census of fire-arms.

32. The Local Government may, from time to time, by notification in the local official Gazette, direct a census to be taken of all fire-arms in any local area, and empower any person by name or in virtue of his office to take such census.

* See Act X. of 1882, sec. 3.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Notice and limitation of proceedings.

33. No proceeding other than a suit shall be commenced against any person for anything done in pursuance of this Act without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 3.*)

Number and year.	Title.	Extent of repeal.
XVIII. of 1841...	An Act for consolidating and amending the enactments concerning the exportation of Military Stores.	So much as has not been repealed.
XXX. of 1854...	An Act to provide for the levy of duties of customs in the Arakan, Pegu, Martaban, and Tenasserim Provinces.	In the preamble, the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11.*
XXXI. of 1860...	An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	So much as has not been repealed.
VI. of 1866...	An Act to continue Act No. XXXI. of 1860 (relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes.	The whole.

* The rest of Act XXX. of 1854 was repealed by Act XX. of 1886, s. 5.

THE FIRST SCHEDULE.—(*continued*).

ENACTMENTS REPEALED.

(*See section 3.*)

Number and year.	Title.	Extent of repeal.
III. of 1872...	The Santhal Parganas Settlement Regulation.	So much of the schedule* as relates to Act XXXI of 1860 and Act VI. of 1866.
IX. of 1874...	The Arakan Hills District Laws Regulation, 1874.	So much of the schedule as relates to Act XVIII. of 1841.
XV. of 1874...	An Act for declaring the local extent of certain enactments, and for other purposes.	So much of the first schedule as relates to Act XVIII. of 1841.

THE SECOND SCHEDULE.

[*Repealed by Act XII. of 1891.*]

NOTES UNDER THE INDIAN ARMS ACT.

A Magistrate issued a notification that all persons desirous of carrying arms should take out a license enabling them to do so under sec. 26 of Act XXXI. of 1860 ; and certain persons were, in consequence of this notification, arrested and brought before him, charged in a police-report with carrying arms without license. No summons or warrant had been applied for, or any complaint lodged before the Magistrate previous to the arrest of the prisoners. No charge in writing was framed as required under secs. 250, 251 of the Criminal Procedure Code. No evidence was taken ; but the prisoners admitted carrying the fire-arms. The Magistrate convicted them, under sec. 188 of the Penal Code, of disobedience to an order duly promulgated by a public servant. There was no evidence that the disobedience would cause or tend to cause annoyance, obstruction, or injury to human life, health, or safety. *Held* that the convictions must be quashed. Necessity of observing the rules laid down in the Criminal Procedure Code remarked on.—3 B. L. R., App. 149.

The mere possession of arms in a certain district being an offence, if there be satisfactory evidence that the prisoners were in the possession of arms, they would be punishable for such illegal possession, notwithstanding the police may have also committed an illegality in their procedure in conducting the search for the same.—2 N.-W. P. H. C. R., 57.

The proceedings of the Magistrate directing the issue of a summons to appear, and of a warrant of arrest against a person for the possession of arms without a license under Act XXXI. of 1860, were quashed as illegal. —18 W. R., 1 ; 9 B. L. R., App. 34.

The mere possession of arms without a license in Gya was held to be no offence under the Arms Act (XXXI. of 1860), the provisions of sec. 32

* A new schedule has since been substituted for the schedule here mentioned.

of that Act not having been extended to that district.—18 W. R., 26 ; 9 B. L. R., 34*n*.

In a district where bison are notoriously in the habit of injuring crops, a license under form xi., rule 16, of the Arms Act, 1878 (rules to kill wild beasts which injure crops), justifies the holder thereof in shooting bison for the sake of sport without taking out a sporting license under form viii, rule 13, of the same rules.—I. L. R., 5 Madr. 26.

A collection of fire-arms, consisting of four small cannons, four pistols, and thirty-one muskets, had been kept as objects of worship in a Sikh temple in Patna for upwards of two centuries. The mohunt of the temple neglected to take out a license in respect of these arms under Act XI. of 1878. A police-inspector, who was appointed to see that the provisions of the latter Act were obeyed, searched the temple on information received, and, having found the arms, prosecuted the person who had charge of the temple. The latter was convicted by the Deputy Magistrate of Patna under sec. 19, cl. *f*, of Act XI. of 1878, and sentenced to pay a fine of Rs. 50, or to be rigorously imprisoned for two months. The Deputy Magistrate also ordered the arms to be confiscated, and directed that their value and the fine should be divided between the informer and the police-inspector. On a reference from the Sessions Judge of Patna, *held*, with reference to Act X. of 1872, sec. 579, and the last heading to sch. iv. of the same Act, and to sec. 19, cl. *f*, of Act XI. of 1878, that the proceedings of the police-inspector and the conviction of the accused were not illegal. There is nothing in the Arms Act to exempt the custodians of a temple from complying with the requirements of the Arms Act, either by taking out a license, or obtaining exemption under sec. 27. Sec. 25 of the Arms Act appears to refer to cases in which the Magistrate considers that arms, whether under a license or not, are possessed for an illegal purpose, or under circumstances such as to endanger the public peace. Sec. 30 of the Arms Act appears to contemplate the presence of some specially empowered officer besides the officer conducting the search.—8 Cal. 473.

The manufacture or possession of fireworks, including rockets which are mere fire-works, without a license is not prohibited by sec. 5 of the Arms Act, 1878. The rockets referred to in sec. 4 are war-rockets.—5 Madr. 159.

A gun rendered unserviceable by the loss of the trigger does not fall within the definition of "arms" in sec. 4 of the Arms Act, 1878. Possession of such a weapon without a license is no offence.—6 Madr. 60.

As a gun-barrel and nipple in serviceable condition fall within the definition of "arms" in sec. 4 of the Arms Act, 1878, the possession of such articles without a license is punishable under sec. 19 (*f*) of the said Act.—7 Madr. 70.

The possession of gunpowder without a license, whether intended for the manufacture of fireworks or not, is an offence under sec. 19 of the Arms Act, 1878. Queen *v.* Suppi (I. L. R., 5 Madr. 159) distinguished.—8 Madr. 202.

Cl. 2, sec. 32 of Act XXXI. of 1860, relating to the manufacture, importation, and sale of arms, did not apply to the Badami Taluka of the Kaladgi Collectorate at the time when the Arms Act (XI. of 1878) came into force ; and the notification of the Government of Bombay, No. 1112 of the 19th February 1878, which declares that the provisions of Act XXXI of 1860, as modified by Act VI. of 1866 are in force in Badami amongst other places, is not an order of disarmament under cl. 1, sec. 32 of Act XXXI.

of 1860. In the absence, therefore, of a notification, under sec. 15 of Act XI. of 1878, extending, with the previous sanction of the Governor-General in Council, the provisions of the section to Badami, the possession of arms without a license in that taluka is not punishable under sec. 19.—9 Bom. 478.

B, having obtained a license under the Arms Act, 1878, for a matchlock, had the same converted into a percussion-gun. He was convicted under sec. 19 of the said Act, on the ground that the license did not permit him to keep a percussion-gun. *Held* that the conviction was bad.—10 Madr. 131.

Sale of sulphur and ammunition by the agent of one holding a license (in form VI.) under Act XI. of 1878 is not illegal.—12 Madr. 473.

INDIAN RAILWAYS ACT.

ACT NO. IX. OF 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to consolidate, amend, and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend, and add to the law relating to railways in India ; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called "The Indian Railways Act, 1890."

(2) It extends to the whole of British India, inclusive of Upper Burma and (in so far as it has been or may be extended under the provisions of the Sindh Pishin Railway Act, 1887) of British Baluchistan, and applies also to all subjects of Her Majesty, within the dominions of Princes and States in India in alliance with Her Majesty, and to all native subjects of Her Majesty without and beyond British India and those dominions ; and

(3) It shall come into force on the first day of May 1890.

Repeal.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred, and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred, and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

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

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways :

(2) "ferry" includes a bridge of boats, pontoons, or rafts, a swing bridge, a flying bridge, and a temporary bridge, and the approches to, and landing places of, a ferry :

(3) "inland water" means any canal, river, lake, or navigable water in British India :

(4) " railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals, or goods, and includes—

(*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(*b*) all lines of rails, sidings, or branches worked over for the purposes of, or in connection with, a railway;

(*c*) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, and other works constructed for the purposes of, or in connection with, a railway; and

(*d*) all ferries, ships, boats, and rafts which are used on inland waters for the purposes of the traffic of a railway, and belong to or are hired or worked by the authority administering the railway:

(5) " railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway, or parties to an agreement for working a railway:

(6) " railway administration," or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway, and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company:

(7) " railway servant" means any person employed by a railway administration in connection with the service of a railway:

(8) " Inspector" means an Inspector of Railways appointed under this Act:

(9) " goods" includes inanimate things of every kind:

(10) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks, and trollies of all kinds:

(11) " traffic" includes rolling-stock of every description, as well as passengers, animals, and goods:

(12) " through traffic" means traffic which is carried over the railways of two or more railway administrations:

(13) " rate" includes any fare, charge, or other payment for the carriage of any passenger, animal, or goods:

(14) " terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes, and other similar matters, and of any services rendered thereat:

(15) " pass" means on authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously:

(16) "ticket" includes a single ticket, a return ticket, and a season ticket:

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy : and

(18) " Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

CHAPTER II.

INSPECTION OF RAILWAYS.

Appointment and duties of Inspectors.

4. (1) The Governor-General in Council may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor-General in Council as required by this Act ;

(*b*) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor-General in Council may direct ;

(*c*) to make inquiry under this Act into the cause of any accident on a railway ;

(*d*) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

Powers of Inspectors.

5. An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor-General in Council, shall, for that purpose, have the following powers, namely :—

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon ;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration ;

(*c*) to require the production of any book or document belonging to, or in the possession or control of, any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to Inspectors.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

Authority of railway administrations to execute all necessary works.

7. (1) Subject to the provisions of this Act, and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing ar ailway, or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

(*a*) make or construct in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railways, or tramways, or any rivers, canals, brooks, streams, or other waters, or any drains, water pipes, gas-pipes, or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embank ments, acqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings, and fences as the railway administration thinks proper ;

(*b*) alter the course of any rivers, brooks, streams, or water-courses for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams, or water-courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under, or by the side of, the railway, as the railway, administration thinks proper ;

(*c*) make drains or conduits into, through, or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;

(*d*) erect and construct such houses, warehouses, offices, and other buildings, and such yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences as the railway administration thinks proper ;

(*e*) alter, repair, or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead ; and

(*f*) do all other acts necessary for making, maintaining, altering, or repairing, and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor-General in Council.

Alteration of pipes, wires, and drains.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water, or compressed air, or the position of any electric wire, or of any drain not being a main drain :

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire, or drain, it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company, having control over the pipe, wire, or drain, or, when the pipe, wire, or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire, or drain is ;

(*b*) a local authority, company, or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.

Temporary entry upon land for repairing or preventing accident.

9. (1) The Governor-General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment, or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity, the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor-General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done ; and the power conferred on the railway administration by this sub-section shall cease and determine, if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8, or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land-acquisition Act, 1870, and the provisions of secs. 57 and 58 of that Act shall apply to the award of compensation.

Accommodation works.

11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(*a*) such and so many convenient crossings, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, watercourses, or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby, and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive, and have been paid compensation in consideration of their not requiring the works to be made ;

(*b*) save as hereinafter in this chapter provided, a railway administration shall not, except on the requisition of the Governor-General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream

is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and, if for fourteen days next after that time the railway administration fails to commence the work, or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it, and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier, or local authority to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under, or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary, and are agreed to by the railway administration, or as, in case of difference of opinion, may be authorized by the Governor-General in Council.

Fences, screens, gates, and bars.

13. The Governor-General in Council may require that, within a time to be specified in the requisition, or within such further time as he may appoint in this behalf,—

(*a*) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof, and for roads constructed in connection therewith ;

(*b*) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway ;

(*c*) suitable gates, chains, bars, stiles, or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level ;

(*d*) persons be employed by a railway administration to open and shut such gates, chains, or bars.

Over and under bridges.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor-General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents, and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may

appear to the Governor-General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor-General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor-General in Council thinks just.

Removal o trees dangerous to or obstructing the working of a railway.

15. (1) In either of the following cases, namely :—

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree, or deal with it in such other manner as will, in the opinion of the railway administration, avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency, the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed, or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate, or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

Right to use locomotives.

16. (1) A railway administration may, with the previous sanction of the Governor-General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned, and published under this Act.

Notice of intended opening of a railway.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of

passengers, give to the Governor-General in Council notice in writing of its intention.

(2) The Governor-General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers, until the Governor-General in Council, or an Inspector empowered by the Governor-General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

19. (1) The sanction of the Governor-General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor-General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock;

(*b*) that the moving and fixed dimensions prescribed by the Governor-General in Council have not been infringed;

(*c*) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor-General in Council;

(*d*) that the railway is sufficiently supplied with rolling-stock;

(*e*) that general rules for the working of the railway, when opened for the public carriage of passengers, have been made, sanctioned, and published under this Act; and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If, in the opinion of the Inspector, the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor-General in Council, and the Governor-General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with, or the Governor-General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void, and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor-General in Council.

Application of the provisions of the three last foregoing sections to material alterations of a railway.

20. (1) The provisions of sections 17, 18, and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers, and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions, and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18, and 19 apply, or are extended by this section.

Exceptional provision.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely :—

(*a*) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not, in his opinion, be attended with danger to the public using the line and works or the diversion ; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

22. The Governor-General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to close an opened railway.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor-General in Council ; and the Governor-General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling stock so

specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor-General in Council may consider necessary for the safety of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor-General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use, and the Governor-General in Council has sanctioned its use.

(3) When the Governor-General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor-General in Council.

Delegation of powers under this chapter to Inspectors.

25. (1) The Governor-General in Council may, by general or special order, authorize the discharge of any of his functions under this chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function, or attach thereto any condition which the Governor-General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall, for all the purposes of this Act, have the same effect as if it were attached to a sanction or order given by the Governor-General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

Constitution of Railway Commission.

26. (1) For the purposes of this chapter the Governor-General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor-General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners

are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice, or, in the case of the Chief Court of the Punjab, the Senior Judge, or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma, may, on the request of the Governor-General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor-General in Council, and one at least of them shall be of experience in railway business.

Restriction of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor-General in Council.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely :—

(*a*) where complaint is made to the Governor-General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this chapter ;

(*b*) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor-General in Council to have it referred to the Commissioners ;

(*c*) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor-General in Council to have it referred to the Commissioners ;

the Governor-General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

Constitution of Railway Commission in session.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this chapter, and the Law Commissioner shall preside at the hearing.

Powers of Railway Commission.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction, and not otherwise.

(3) At the hearing the Comissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practice in any High Court.

Appeals from orders of Railway Commission.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

Operation of orders of Railway Commission.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspended it, continue in operation until it is reversed or varied by that Court.

Assessors.

33. (1) The Commissioners, in the exercise of their jurisdiction under this chapter, may from time to time, with the general or special sanction of the Governor-General in Council, call in one or more persons of enginering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor-General in Council upon the recommendation of the Commissioners may direct.

Power of the Governor-General in Council to make rules for the purposes of this chapter.

34. The Governor-General in Council may make rules regulating proceedings before the Commissioners, and enabling the Commissioners to carry into effect the provisions of this chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Costs of proceedings under this chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court, of which the Law Commissioner was a Judge, as if the payment had been ordered by a decree of a High Court.

Execution of order of Railway Commission and High Court.

36. (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners, or on appeal before the High Court, or

of the representative of any such person that an injunction made under this chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

Evidence of documents.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Submission to the Governor-General in Council of special reports by Railway Commission.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor-General in Council a special report on the case, and the Governor-General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Dissolution of Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor-General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re appoint the Commissioners for the purpose of hearing an application for a review of their decision, and of granting the same and re hearing the case if they think that the case should be reheard.

Finality of orders of Railway Commission subject to the foregoing provisions of this chapter.

40. Subject to the foregoing provisions of this chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final, and shall not be questioned in or restrained by any Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

41. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding, and delivering of traffic upon and from the several railways belonging to or worked by it, and for the return of rolling-stock.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding, and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates ;

Provided as follows :—

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment, and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund ;

(*b*) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment, and route, and, if it has any objection, what the grounds of the objection are ;

(*c*) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period ;

(*d*) if an objection to the rate, apportionment, or route, has been sent within the prescribed period, the Governor-General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;

(*e*) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners to be just and reasonable;

(*f*) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;

(*g*) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(*h*) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;

(*i*) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(*j*) the prescribed period mentioned in this sub-section shall be one month or such longer period as the Governor-General in Council may by general or special order prescribe.

Undue preference in case of unequal rates for like traffic or services.

43. (1) Whenever it is shown that a railway administration charges one trader or class of traders, or the traders in any local area, lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower

charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.

44. Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat, or raft which does not belong to, or is not hired or worked by, the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat, or raft in so far as it is used for the purposes of the traffic of the railway.

Terminals.

46. A railway administration may charge reasonable terminals.

Power of Railway Commission to fix terminals.

46. (1) The Governor-General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAY.

General.

General rules.

47. (1) Every railway company, and, in the case of a railway administered by the Government, an officer to be appointed by the Governor-General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely :—

(*a*) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled ;

(*b*) for providing for the accommodation and convenience of passengers, and regulating the carriage of their luggage ;

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods ;

(*d*) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;

(*e*) for regulating the conduct of the railway servants ;

(*f*) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and,

(*g*) generally, for regulating the travelling upon, and the use, working, and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a rule made under clause (*e*) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor-General in Council, and been published in the Gazette of India :

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published, and announcing the adoption thereof, shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor-General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor-General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railways Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.

48. Where two or more railway administrations, whose railway have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor-General in Council, upon the application of either or any of the administrations, may decide the matters in dispute

between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Agreements with the Governor-General in Council for construction or lease of rolling stock.

49. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make and carry into effect agreements with the Governor-General in Council for the construction of rolling-stock, plant, or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery, or equipments required for use on a railway, or for the maintenance of rolling-stock.

Powers of railway companies to enter into working agreements.

50. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make with the Governor-General in Council, and carry into effect, or, with the sanction of the Governor-General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

(*a*) the working, use, management, and maintenance of any railway ;

(*b*) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (*a*), and of officers and servants for the conduct of the traffic of the railway ;

(*c*) the payments to be made and the conditions to be performed with respect to such working, use, management, and maintenance ;

(*d*) the interchange, accommodation, and conveyance of traffic being on, coming from, or intended for, the respective railways of the contracting parties, and the fixing, collecting, apportionment, and appropriation of the revenues arising from that traffic ;

(*e*) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are from time to time respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

Establishment of ferries and roadways for accommodation of traffic.

51. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time exercise, with the sanction of the Governor-General in Council, all or any of the following powers, namely :—

(*a*) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry;

(*b*) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;

(*c*) it may provide and maintain on any of its bridges roadways for foot passengers, cattle, carriages, carts, or other traffic;

(*d*) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;

(*e*) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals, or goods carried or to be carried on its railway;

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads, or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

Returns.

52. Every railway administration shall, in forms to be prescribed by the Governor-General in Council, prepare, half-yearly or at such intervals as the Governor-General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor-General in Council may require, and shall forward a copy of such returns to the Governor-General in Council at such times as he may direct.

Carriage of Property.

Maximum load for wagons.

53. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which pass over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor-General in Council for the class axle under the wagon or truck.

Power for railway administrations to impose conditions for working traffic.

54. (1) Subject to the control of the Governor-General in Council, a railway administration, may impose conditions, not inconsistent with this Act, or with any general rule thereunder, with respect to the receiving, forwarding, or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

Lien for rates, terminals, and other charges.

55. (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal, or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or, where there are no such newspapers, in such manner as the Governor-General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice, and sale, including, in the case of animals, the expenses of the feeding, watering, and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge, and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person, on whom a demand for any rate, terminal, or other charge due from him has been made, fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them, and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal, or other charge as aforesaid or balance thereof.

Disposal of unclaimed things on a railway.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise, and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may, within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

57. Where any animals, goods, or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forth-coming, the railway administration may withhold delivery of the animals, goods, or sale proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods, or sale-proceeds.

Requisitions for written accounts of description of goods.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person, or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (*a*) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods, unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods, or (*b*) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried, or have been carried, on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination; and be responsible to the owner of the goods for any such loss as aforesaid.

Dangerous or offensive goods.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them, or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in sub-section (1) having to his knowledge been given, may refuse to carry them, or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3), and (4), shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government, or to any goods which an officer, soldier, sailor, or police officer, or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

Exhibition to the public of authority for quoted rates.

60. At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times and without payment of any fee, the rate-books or other documents in which the rate is authorized by the administration or administrations concerned.

Requisitions on railway administrations for details of gross charges.

61. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the carriage has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

(*a*) the carriage of the goods on the railway ;

(*b*) terminals ;

(*c*) demurrage ; and

(*d*) collection, delivery, and other expenses ; but without particularising the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing, and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

Communication between passengers and railway servants in charge of trains.

62. The Governor-General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor-General in Council has approved.

Maximum number of passengers for each compartment.

63. Every railway administration shall fix, subject to the approval of the Governor-General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in English, or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor-General in Council, after consultation with the railway administration, may determine.

Reservation of compartments for females.

64. (1) On and after the first day of January 1891, every railway administration shall, in every train carrying passengers reserve, for the exclusive use of females, one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

Exhibition of time tables and tables of fares at stations.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway in English, and in a vernacular language in common use in the territory where the station is situate, a copy of the time tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

Supply of tickets on payment of fares.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the

place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued, and for whom there is not room available in the train for which the ticket was issued, shall, on returning the ticket within three hours after the departure of the train, be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket, and who is obliged to travel in a carriage of a lower class, shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

Prohibition against travelling without pass or ticket.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger, unless he has with him a proper pass or ticket.

Exhibition and surrender of passes and tickets.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Return and season tickets.

70. A return ticket or season ticket shall not be transferable, and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Power to refuse to carry persons suffering from infectious or contagious disorder.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (*d*), a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master, or other railway servant in charge of the place where he enters upon the railway.

(3) a railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

72. (1) The responsibility of a railway administration for the loss, destruction, or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152, and 161 of the Indian Contract Act, 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(*b*) is otherwise in a form approved by the Governor-General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

Further provision with respect to the liability of a railway administration as a carrier of animals.

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction, or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head, or, in the case of camels or horned cattle, fifty rupees a head, or, in the case of sheep, goats, dogs, or other animals ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty, or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction, or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction, or deterioration of the parcel or package, unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed, or has deteriorated, the compensation recoverable in respect of such loss, destruction, or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule, that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. In any suit against a railway administration for compensation for loss, destruction, or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction, or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction, or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Notification of claims to refunds of overcharges and to compensation for losses.

78. Notwithstanding anything in the foregoing provisions of this chaptar a railway administration shall not be responsible for the loss, destruction, or deterioration of any goods with respect to the description

Exoneration from responsibility in case of goods falsely described.

of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction, or deterioration is in any way brought about by the false account nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Settlement of compensation for injuries to officers, soldiers, and followers on duty.

79. Where an officer, soldier, or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier, or follower being or travelling as such on duty upon the railway, compensation, would be payable under Act No. XIII. of 1855, or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was, immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

Suits for compensation for injury to through-booked traffic.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction, or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction, or deterioration occurred.

Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.

81. Where a railway administration under contract to carry animals or goods by any inland water procures the same to be carried in a vessel which is not a railway as defined in this Act, the responsibility of the railway administration for the loss, destruction, or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.

Limitation of liability of railway administration in respect of accidents at sea.

82. (1) When a railway administration contracts to carry passengers, animals, or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury, or loss of or damage to animals or goods which may happen during the carriage by sea from the Act of God, the King's enemies, fire, accidents from machinery, boilers, and steam, and all and every other dangers and accidents of the seas, rivers, and navigation of whatever nature and kind soever, shall, without being expressed, be deemed to be

part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury, or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts, and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury, or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

Report of railway accidents.

83. When any of the following accidents occurs in the course of working a railway, namely :—

(*a*) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property ;

(*b*) any collusion between trains of which one is a train carrying passengers ;

(*c*) the derailment of any train carrying passengers, or of any part of such a train ;

(*d*) any accident of a description usually attended with loss of human life, or with such grievous hurt as aforesaid, or with serious injury to property ;

(*e*) any accident of any other description which the Governor-General in Council may notify in this behalf in the Gazette of India ;

the railway administration working the railway, and, if the accident happens to a train belonging to any other railway administration, the other railway administration also, shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway ; and the station-master nearest to the place at which the accident occurred, or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred, shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor-General in Council appoints in this behalf.

Power to make rules regarding notices of and inquiries into accidents.

84. The Governor-General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for all or any of the following purposes, namely:—

(*a*) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;

(*b*) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(*c*) for prescribing the duties of railway servants, police-officers, Inspectors, and Magistrates on the occurrence of an accident.

Submission of return of accidents.

85. Every railway administration shall send to the Governor-General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner, and at such intervals of time, as the Governor-General in Council directs.

Provision for compulsory medical examination of person injured in railway accident.

86. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having, by law or consent of parties, authority to determine the claim, may order that the person injured be examined by some duly qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

Penalty for default in compliance with requisition under section 13.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default, and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for contravention of section 16, 18, 19, 20, 21, or 24.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20, or section 21, or reopens any railway or uses any rolling stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work, or rolling-stock is used in contravention of any of those sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54, or 65.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by sec. 47.

91. If a railway company refuses or neglects to comply with any decision of the Governor-General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for failure to comply with decision under section 48.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for delay in sub mitting returns under section 52 or 85.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck, or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

94. If a railway company fails to comply with any requisition of the Governor-General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor-General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

Penalty for failure to reserve compartments for females under section 64.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

Recovery of penalties.

97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor-General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor-General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this chapter.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

Breach of duty imposed by section 60.

99. If a railway servant, whose duty it is to comply with the provisions of section 60, negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Drunkenness.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

Endangering the safety of persons.

101. If a railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any general rule made, sanctioned, published, and notified under this Act, or

(*b*) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Compelling passengers to enter carriages already full.

102. If a railway servant compels or attempts to compel, or causes any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Omission to give notice of accident.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83, and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Obstructing level-crossings.

104. If a railway servant unnecessarily—

(*a*) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(*b*) keeps a level-crossing closed against the public,

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

False returns.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

Giving false account of goods.

106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he, and, if he is not the owner of the goods, the owner also, shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway.

107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury, or damage, which may be caused by reason of such goods having been so brought upon the railway.

Needlessly interfering with means of communication in a train.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Entering compartment reserved or already full, or resisting entry into a compartment not full.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the

passenger resisting, or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall punished with fine which may extend to twenty rupees.

Smoking.

110. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine, which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

Defacing public notices.

111. If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Fraudulently travelling or attempting to travel without proper pass or ticket.

112. If a person, with intent to defraud a railway administration,—

(*a*) enters in contravention of section 68 any carriage on a railway, or

(*b*) uses or attempts to use a single pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of single fare for any distance which he may have travelled.

Travelling without pass or ticket, or with insufficient pass or ticket, or beyond authorized distance.

113. (1) If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination, or to deliver up, his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled, or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined, or, in case of their having been examined more than once, where last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or

purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(*a*) where the passenger has, immediately after incurring the charge and before being deducted by a railway servant, notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas, or eight annas, and

(*b*) in any other case, be six rupees, one rupee, or three rupees, according as the passenger is travelling or has travelled, or has attempted to travel, in a carriage of the highest class, or in a carriage of the lowest class, or in a carriage of any other class or kind:

Provided that such excess charge shall in no case exceed,—

(*a*) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(*b*) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge, and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate, and shall, as it is recovered, be paid to the railway administration.

Transferring return half of return ticket.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for the return journey authorized by the ticket.

Disposal of fines under the two last foregoing sections.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

Altering or defacing pass or ticket.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number, or any material portion thereof, illegible, he shall be punished with fine which may extend to fifty rupees.

Being or suffering person to travel on railway with infectious or contagious disorder.

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the sidedoor of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps, or footboard of any carriage, or on a engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for females.

119. If a male person, knowing a carriage, compartment, room, or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid, and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance on a railway.

120. If a person in any railway carriage or upon any part of a railway—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Obstructing railway servant in his duty.

121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Trespass and refusal to desist from trespass.

122. (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

Disobedience of omnibus drivers to directions of railway servants.

123. If a driver or conductor of a tramcar, omnibus, carriage, or other vehicle, while upon the premises of a railway, disobeys the reasonable directions of any railway, servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Opening or not properly shutting gates.

124. In either of the following cases, namely :—

(*a*) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle, or other thing across the railway,

(*b*) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle, or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

Cattle trespass.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered, or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the rail-

way, or for any other lawful purpose, the person in charge of the cattle, or, at the option of the railway administration, the owner of the cattle, shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered, or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train.

126. If a person unlawfully—

(*a*) puts or throws upon or across any railway any wood, stone, or other matter or thing, or

(*b*) takes up, removes, loosens, or displaces any rail, sleeper, or other matter or thing belonging to any railway, or

(*c*) turns, moves, unlocks, or diverts any points or other machinery belonging to any railway, or

(*d*) makes or shows, or hides or removes, and signal or light upon or near to any railway, or

(*e*) does or causes to be done, or attempts to do, any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger, the safety of any person travelling or being upon the railway, he shall be punished with transportation for life, or with imprisonment for a term which may extend to ten years:

Maliciously hurting or attempting to hurt persons travelling by railway.

127. If a person unlawfully throws or causes to fall or strike at, against, into, or upon any rolling-stock forming part of a train any wood, stone, or other matter or thing, with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock, or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life, or with imprisonment for a term which may extend to ten years.

Endangering safety of persons travelling by railway by wilful act or omission.

128. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed, or attempts to obstruct, any rolling-stock upon any

railway, he shall be punished with imprisonment for a term which may extend to two years.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

129. If a person, rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

Arrest for offences against certain sections.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128, or 129, or in section 130, sub section (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trail.

Arrest of persons likely to abscond or unknown.

132. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his

true name and address are ascertained, on his executing a bond without sureties for his appearence before a Magistrate when required.

(3) If the person cannot give bail, and his true name and address are not ascertained, he shall, with the least possible delay, be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX. and XLII. of the Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section.

Magistrate having jurisdiction under Act.

133. No Magistrate other than a Presidency Magistrate, or than a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of trial.

134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be, or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Taxation of railways by local authority.

135. Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely :—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority, unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Governor-General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may, at any time, revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority

for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering, or be prepared to render, within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen, or for the conservancy of a river.

Restriction on execution against railway property.

136. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials, or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or work shops, shall be liable to be taken in execution of any decree or order of any Court without the previous sanction of the Governor-General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX. of the Indian Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX. of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

Procedure for summary delivery to railway administration of property detained by a railway servant.

138. If a railway servant is discharged or suspended from his office, or dies, absconds, or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway

administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the railway administration, or a person appointed by the railway administration in that behalf.

Mode of signifying communications from the Governor General in Council.

139. Any notice, determination, direction, requisition, appointment, expression of opinion, approval, or sanction to be given or signified on the part of the Governor-General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding, if in writing signed by a Secretary, Deputy Secretary Under-Secretary, or Assistant Secretary, to the Government of India, or by any other officer or servant authorized to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor-General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices on railway administrations.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager, and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent, or

(*b*) by leaving it at his office, or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or agent at his office, and registered under Part III. of the Indian Post Office Act, 1866.

Service of notices by railway administrations.

141. Any notice or other document required or authorized by this Act to be served on any person by a railway adminisration may be served—

(*a*) by delivering it to the person, or

(*b*) by leaving it at the usual or last known place of abode of the person, or

(*c*) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode, and registered under Part III. of the Indian Post Office Act, 1866.

Presumption where notice is served by post.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Provisions with respect to rules.

143. (1) A rule under section 22, section 34, or section 84, or the cancellation, rescission, or variation of a rule under any of those sections, or under section 47, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission, or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor-General in Council, by general or special order, directs.

(2) The Governor-General in Council may cancel or vary any rule made by him under this Act.

Delegation of powers of Governor-General in Council.

144. (1) The Governor-General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor-General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 139 with respect to proceedings of the Governor-General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers, or discharging the functions, of the Governor-General in Council in pursuance of a notification under sub-section (1).

Representation of Managers and Agents of Railways in Courts.

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal, or other Court.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

Power to extend Act to steam-tramways.

146. The Governor-General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

Power to exempt railways from Act.

147. The Governor-General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

Matters supplemental to the definitions of "railway" and "railway servant."

148. (1) For the purposes of section 3, clauses (5), (6), and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124, to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145, and 147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction, and to a railway or portion of a railway not used for the public carriage of passengers, animals, or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125, and 137, sub-sections, (1), (2), and (4) and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Amendment of the Indian Penal Code.

149. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India of England" shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887, which begins with the words "so far as it applies" and ends with the words "in its entirety," the words "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Title.	Extent of repeal.
	Acts of the Governor General in Council.	
III. of 1865 ...	Carriers Act, 1865 ...	Section 7 (so far as it relates to railways) and sec. 10.
IV. of 1879. ...	Indian Railways Act, 1879 ...	The whole.
IV. of 1883 ...	Indian Railways Act, 1883 ...	The whole.
XI. of 1886 ...	Indian Tramways Act, 1886 ...	Section 49.
XX. of 1886 ...	Upper Burma Laws Act, 1886..	So much as relates to Acts IV. of 1879 and IV. of 1883.

THE FIRST SCHEDULE.—(*Continued.*)

ENACTMENTS REPEALED.—(*Contd.*)

(*See section 2.*)

Act of the Lieutenant-Governor of Bengal in Council.

Number and year.	Title.	Extent of repeal.
II. of 1882 ...	Bengal Embankments Act, 1882 ...	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the sec. last preceding" and the words "or railroad" wherever they occur.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(*See section 75.*)

(*a*) gold and silver, coined or uncoined, manufactured or unmanufactured;

(*b*) plated articles;

(*c*) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, solder, sailor, police-officer, or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform;

(*d*) pearls, precious stones, jewellery, and trinkets;

(*e*) watches, clocks, and time pieces of any description;

(*f*) Government securities;

(*g*) Government stamps;

(*h*) bills of exchange, hundis, promissory-notes, bank-notes, and orders or other securities for payment of money;

(*i*) maps, writing, and title-deeds;

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture, and other works of art;

(*k*) art pottery and all articles made of glass, china, or marble;

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(*m*) shawls;

(*n*) lace and furs;

THE SECOND SCHEDULE.—(*Continued.*)

(*o*) opium;

(*p*) ivory, ebony, coral, and sandalwood;

(*q*) musk, sandalwood-oil, and other essential oils used in the preparation of *itr* or other perfume;

(*r*) musical and scientific instruments;

(*s*) any article of special value which the Governor-General in Council may, by notification in the Gazette of India, add to this schedule.

NOTE UNDER THE INDIAN RAILWAYS ACT.

"Terminal charge" means a charge for the use of goods station and for the various duties which a railway company, as common carriers, perform in connection with the goods consigned to them for carriage. The Plaintiffs sued to recover from the defendants the sum of Rs. 1,34,152-11, which during the three years prior to suit the plaintiffs had been obliged by the defendants to pay as "terminal charges" on consignments of cotton made by the plaintiffs from up-country stations to Bombay. The plaintiffs contended (1) that such charges were illegal; (2) that if not illegal they were excessive. *Held*, dismissing the suit, that the defendants were entitled to charges "terminal charges" on the goods carried by them for the plaintiffs, subject only, as to the rates and amounts thereof, to the sanction of Government; and that the rates charged to the plaintiffs were not higher than the sanctioned charges. *Semble.*—Under sections 41, 45 and 46 of Act IX of 1890 the High Court has no jurisdiction to consider or entertain a claim relating to terminals charged by the defendants subsequently to the time at which that Act came into operation.—I. L. R., 15 Bom. 537.

FOREIGN JURISDICTION AND EXTRADITION.

ACT NO. XXI. OF 1879.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH NOVEMBER 1879.

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Preamble.

WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance, and other lawful means, the Governor-General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor-General in Council; and whereas doubts having arisen how for the exercise of such power and jurisdiction, and the delegation thereof, were controlled by, and dependent on, the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act, and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879."

Extent.

It extends to the whole of British India;*

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

Saving of other laws and of treaty.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

* See *Gazette of India*, October 22, 1881, Pt. I., p. 504.

Repeal.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions, and rules made, and all existing notifications, summonses, warrants, orders, and directions issued, under that Act, shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

Interpretation-clause.

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

"Political Agent."

"Political Agent" means and includes—

(1) The principal officer representing the British Indian Government in any territory or place beyond the limits of British India;

(2) any officer in British India appointed by the Governor-General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India; and

"European British subject."

"European British subject" means a European British subject as defined in the Code of Criminal Procedure.*

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

Exercise of powers of Governor-General in places beyond British India, and delegation thereof.

4. The Governor-General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor-General in Council from time to time thinks fit.

Notification of exercise or delegation of such powers.

5. A notification in the *Gazette of India* of the exercise by the Governor-General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Appointment, powers, and jurisdiction of Justices of the Peace.

6. "The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office, to be a Justice of the Peace in or

* See Act X. of 1882, sec. 3.

for any such country or place ;"* and every such justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

The Governor-General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trail.

Confirmation of existing Political Agents and Justices.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April 1872 by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have had jurisdiction, under the provisions of this Act.

Extension of criminal law of British India to British subjects out of British India.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, extend—

(*a*) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty ; and

(*b*) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

CHAPTER III.

9 & 10.—[*Repealed by Act X. of* 1882, *sec. 2 and sch. I* (*b*).]

CHAPTER IV.

EXTRADITION.

Arrest and removal of persons other than European British subjects escaping into British India.

11. When an offence has been committed, or is supposed to have been committed, in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

if such Political Agent thinks that the offence is one which ought to be inquired into in such State ;

* The words quoted have been substituted for 33 words which have been repealed. —See Act XII. of 1891.

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor-General in Council by a notification in the *Gazette of India*.

Direction and execution of warrant.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants;* and the accused person, when arrested, shall be forwarded to the place, and delivered to the officer named in the warrant.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

13. Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor-General in Council, or by the Governor of the Presidency of Fort St. George in Council, or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

Requisitions for extradition by the executive of any part of British dominions or Foreign Power.

14. Whenever a requisition is made to the Governor-General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor-General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to enquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue ; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said enquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such

* See now Act X. of 1882, Ch. VI. (B).

accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section 10* shall apply to inquiries held under this section.

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section 11, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint, and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Magistrate to inform Political Agent or Local Government.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Person arrested to be released after certain time if not proceeded against.

16. No person arrested on a warrant issued by a Magistrate under section 15 shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section 11 from the Political Agent for any State for the delivery of such person, or an order with reference to him under section 14 from the Governor-General in Council or Local Government, or such person is, in accordance with law, delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order, the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

Bail.

17. The provisions of the Code of Criminal Procedure in respect of bail† shall apply in the case of any person arrested under section 15 in the same manner as if such person were accused of committing in British India the offence with which he is charged.

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* Repealed. See now Act X. of 1882, sec. 189.

† See Act X. of 1882, sec. 3, and Ch. XXXIX.

CHAPTER V.

MISCELLANEOUS.

Power to make rules.

18. The Governor-General in Council may, from time to time, make rules to provide for—

(1) the confinement, diet, and prison-discipline of British subjects, European or native, imprisoned by Political Agents under this Act ;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ; and

(3) generally to carry out the purposes of this Act.

Execution of Commissions issued by Foreign Criminal Courts.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV. ; * and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal :

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION 11.

Sections 206, 208, & 224 ; sections 230 to 263, both inclusive ; sections 299 to 304, both inclusive ; sections 307, 310, and 311 ; sections 312 to 317, both inclusive ; sections 323 to 333, both inclusive ; sections 347 and 348 ; sections 360 to 373, both inclusive ; sections 375 to 377, both inclusive ; sections 378 to 414, both inclusive ; sections 435 to 440, both inclusive ; sections 443 to 446, both inclusive ; sections 464 to 468, both inclusive ; sections 471 to 477, both inclusive.

* See Act XIV. of 1882, sec. 3.

ASSAM LABOUR AND EMIGRATION ACT.

ACT NO. I. OF 1882.*

RECEIVED THE G.-G.'S ASSENT ON THE 6TH JANUARY 1882.

An Act to amend the law relating to Emigration to the labour-districts of Bengal and Assam.

Preamble.

WHEREAS it is expedient to amend the law relating to the emigration of natives of India to the districts of Chittagong, the Chittagong Hill Tracts, Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Khasi Hills, Cachar, and Sylhet; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1.† This Act may be called the Assam Labour and Emigration Act, 1882.

Local extent.

It extends—

(*a*) to the territories respectively administered by the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, and Assam, and to the district of Ganjam; and

(*b*) to such other portions of the territories administered by the Governor of Fort St. George in Council as the Governor in Council, with the previous sanction of the Governor-General in Council, may, by notification in the Fort St. George Gazette, from time to time direct.

Commencement.

It shall come into force—

(*i*) in the territories mentioned in clause (*a*) of this section, at once; and

(*ii*) in any territories to which it may be extended by a notification under clause (*b*) of this section, on such day as may be specified in that behalf in such notification.

Contracts, &c., under repealed enactments.

2. All contracts entered into, rules and appointments made, orders and notifications published, and licenses granted, under‡ Bengal Act No. VII. of 1873, or any of

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* This Act has been declared in force in the Sonthal Pergunahs by Reg. III. 1872, sec. 3, as amended by Reg. III. of 1886, sec. 2.

† Sec. 1, has been substituted for the original by the Inland Emigration Act (VII. of 1882), sec. 2.

‡ In sec. 2, the words "the said" have been omitted, having been repealed by Act XII. of 1891.

the Acts thereby repealed, and now in force, shall be deemed to have been respectively entered into, made, published, and granted under this Act.*

Interpretation-clause.

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

"Labour-districts:"

The expression, "the labour-districts," means the districts of† Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara,‡ Cachar, and Sylhet; and the expression, "a labour-district," means any one of such districts:

"Magistrate:"

"Magistrate" means a Magistrate of a District, Sub-divisional Magistrate, and any other person appointed, by name or by virtue of his office, by the Local Government to perform the functions of a Magistrate under this Act:

"Superintendent," "Registering Officer," "Inspector," and "Assistant Inspector:"

"Superintendent," "Registering Officer," "Inspector," and "Assistant Inspector," mean, respectively, a Superintendent of Emigration, a Registering Officer, an Inspector of Labourers, and an Assistant Inspector of Labourers, appointed under this Act:

"Contractor," "sub-contractor," "recruiter," and "local agent:"

"Contractor," "sub contractor," "recruiter," and "local agent," mean, respectively, a contractor, a sub-contractor, a recruiter, and a local agent licensed under this Act:

"Labour contract."

"Labour-contract" means a contract entered into in accordance with the provisions of this Act to labour for hire in a labour-district, otherwise than as a domestic servant:

"Labourer"

"Labourer" means any person bound by a contract under the provisions of the said Bengal Act No. VII. of 1873,§ or by a labour-contract under the provisions of this Act. And it also includes any person registered under section 32 or section 66 as a labourer:

"Estate:"

"Estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:

"Employer:"

"Employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed:

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* The first paragraph of sec. 2 as originally enacted (which repeals Beng. Act VII. of 1873, and Regulation IV. of 1877) has been omitted, having been repealed by Act XII. of 1891.

† The words, "Chittagong, the Chittagong Hill Tracts," have been omitted, having been repealed by the Inland Emigration Act (VII. of 1893), sec. 3.

‡ The words "Khasi Hills" have been omitted, having also been repealed by the Inland Emigration Act (VII. of 1893), sec. 3.

§ Beng. Act VII. of 1873 has been repealed by sec. 2 of this Act (I. of 1882).

"Emigrate" denotes the departure of any native of India of the age of sixteen years or upwards (other than a native of a labour district) from any part of the territories administered by the Lieutenant-Governor of Bengal,* or from the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the "Chief Commissioners of Oudh and the Central Provinces, or from any portion of the territories administered by the Governor of Fort St. George in Council in which this Act may, for the time being, be in force,"† for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant:

"Emigrate:"

"Dependent" includes‡ any woman (not being a labourer), any child, and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent, or garden-sardar:

"Dependent:"

"Vessel" includes anything made for the conveyance by water of human beings or property:

"Vessel:"

"Master" means the person for the time being in charge of a vessel:

"Master:"

"Writing" and "written" include "printing" and "lithography."

"Writing" and "written:"

And all words defined in the Indian Contract Act, 1872, and used in this Act, shall have the meanings respectively assigned to them by that Act.

Words to be understood as defined in Contract Act.

4. The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare that any labour-district, "or specified area thereof,"§ within the territories administered by such Government shall, from a day specified in such notification, cease to be subject to all the provisions or any specified provision of this Act; and from such day such "labour-district" or area" shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Power to exempt labour-district.

5. The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local Official Gazette, prohibit, from a day specified in such notification, all natives of India, or any specified class of such natives, from emigrat-

Local Government may prohibit emigration to any labour-district or part thereof.

* The words, "not being a labour-district," have been omitted, having been repealed by the Inland Emigration Act (VII. of 1893), sec. 3.

† The words quoted have been substituted for the words, "Chief Commissioner of Oudh," by the Inland Emigration Act (VII. of 1893), sec. 3.

‡ The word "includes" has been substituted for the word "means" by the Inland Emigration Act (VII. of 1893), sec. 3

§ The words quoted have been inserted by the Inland Emigration Act (VII. of 1893), sec. 4.

ing from the whole or any specified part of the territories under its administration, to any labour-district or to any specified portion of any such district.

The Local Government may, with the like sanction, in like manner, vary or cancel any such notification.

Notification under sections 4 and 5 not to affect prior acts, &c.

6. The publication of a notification under section 4 or section 5 shall not affect any act done, offence committed, or proceedings commenced before such publication.

Saving of free emigration and of ordinary contract law.

7. Save as provided by section 5, nothing in this Act shall be deemed to prohibit any native of India from emigrating to, or entering into a contract to labour in, a labour district otherwise than under the provisions of this Act.

Appointment of officers.

8. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Superintendents of Emigration, Registering Officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers, and Medical Inspectors under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor-General in Council, declare the local area situate in the territories subject to its administration within which he shall exercise the powers, and perform the duties conferred and imposed upon him by this Act or any rule made hereunder.

The Local Government may suspend or remove any persons whom it so appoints.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

Essentials of labour contract.

9. Every labour-contract shall be in writing, and shall be executed in duplicate on substantial paper. Every such contract shall specify—

(*a*) the names of the labourer and his employer ;

(*b*) the term for which the labourer is to labour ;

(*c*) his monthly wages in money and the price at which rice is to be supplied to him ;

(*d*) the labour district in which, and, if the labourer so request, the estate on which, he is to labour.

Every such contract shall be in the form prescribed in the schedule hereto annexed.

No such contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 111 of this Act, for a term exceeding one year, commencing from the date of its execution ;

or shall stipulate for a less rate of monthly wages for a completed daily task regulated in accordance with the provisions of this Act than five rupees in the case of a man and four rupees in the case of a woman for the first three years of the term of the contract, and six rupees in the case of a man and five rupees in the case of a woman for the fourth year of such term.*

No contract made in contravention of, or not in accordance with, the provisions of this section, shall be enforceable under this Act as a labour-contract against the labourer entering into it.

9A.† Unless the contract contains a specific obligation to this effect, no labourer shall be bound by any labour-contract entered into under this Act to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory.

10. Unless the labour contract specifies the particular estate on which the labourer is to labour, the labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract:

If contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer, and situate in labour-district.

Provided that no labourer shall, without his own consent, be separated from his dependents (if any) or from any other labourer who is the wife, husband, son, or daughter of such labourer.

11. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter into a labour-contract.

Persons of sixteen years of age may contract to emigrate.

11A.‡ If the Local Government, after such enquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud, or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by an order in writing, direct the labour-contract of such labourer to be cancelled.

Power of Local Government to cancel contract for wrongful recruitment.

On receipt of any such order by the Local Government, the Superintendent, Inspector, or Magistrate, shall cancel the contract referred to, and shall thereupon make an endorsement that it has been so cancelled on the labourer's copy of the contract, or, if the same be not forthcoming, shall give to the labourer a certificate to that effect.

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* This paragraph has been substituted for the original by the Inland Emigration Act (VII. of 1893), sec. 5.

† Sec. 9A. has been inserted by the Inland Emigration Act (VII. of 1893, sec. 6.)

‡ Secs. 11A 11B, 11C, and 11D, have been inserted by the Inland Emigration Act (VII. of 1893), sec. 7.

11B.* When the labour-contract of any labourer is or has been cancelled under the last foregoing section, the Local Government may, at its discretion, and on the application of the labourer concerned, cancel the labour-contracts of any labourers, being the wife, husband, father, mother, son, or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer, or, in the case of labour-contracts cancelled in the labour-districts, may be employed on any estate belonging to the same employer.

Power to cancel contract of labourer related to labourer whose contract is cancelled.

11C.* Subject to any orders which the Local Government may issue in this behalf, the Superintendent, Inspector, or Magistrate, may send back to his native district any labourer, together with his dependents (if any) whose contract has been cancelled under section 11A, and may recover the whole or any part of the expenses incurred in so sending him back as follows, namely :—

Repatriation of labourers whose contracts cancelled for wrongful recruitment.

(*a*) when the contract has been cancelled before the labourer has reached the labour-districts, in accordance with the provisions of section 49 or section 79, as the case may be, as if it were a sum recoverable under one of those sections ;

(*b*) when the contract has been cancelled in a labour-district, from the employer on whose estate the labourer was under contract to labour, as if it were an arrear of wages.

11D* In any case in which a labourer is sent back to his native district under the provisions of the last foregoing section, the Superintendent, Inspector, or Magistrate, may provide an escort, or make such other arrangements as may appear to him to be necessary for ensuring that such labourer is actually conveyed to such district. Any expenditure incurred in providing such escort or making such arrangements may be recovered as part of the amount expended in sending such labourer back to his native district.

Escort for repatriated labourer.

CHAPTER III.

RECRUITING BY CONTRACTORS, SUB-CONTRACTORS, AND RECRUITERS.

A.—Contractors and Sub-contractors.

12. Any Superintendent specially empowered in this behalf by the Local Government may grant to such persons as he thinks fit licenses to be contractors within the whole or any part of the local area for which such Superintendent has been appointed. He may also, on the application of any contractor, grant to such persons as he thinks

Superintendent may license contractors.

Superintendent may license sub-contractors.

* Secs. 11A, 11B, 11C, and 11D, have been inserted by the Inland Emigration Act (VII. of 1893), sec. 7.

fit licenses to be sub contractors on behalf of such contractor, within the whole or any part of the local area for which such contractor is licensed.

Form of, and fee for, contractors' and sub-contractors' licenses.

13. Every license to a contractor or sub-contractor shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may by rule prescribe.

Period for which contractors' and sub-contractors-license to remain in force.

14. No such license shall be granted for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules made hereunder, or is guilty of any other misconduct, any such license may at any time be cancelled by the Superintendent who granted the same.

Appeal against order cancelling license.

A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license, appeal against such order to the Local Government.

The order of the Local Government on such appeal shall be final.

Duties of contractors.

15. Every contractor, in addition to the special duties herein assigned to him, shall afford such information to the Superintendent, and furnish him with such returns and reports, as he may, subject to any rules which may be framed by the Local Government in this behalf, require.

Sub-contractor only to represent one contractor.

16.* No sub-contractor shall be licensed to act on behalf of more than one contractor.

Contractor or sub-contractor may act as recruiter.

17. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions hereinafter contained relating to recruiters.

Liability of contractors for sub-contractors' and recruiters' acts and defaults.

18. Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter on his behalf, and shall be bound to make good all payments which, under this Act or any rule made hereunder, any such person is ordered to make.

The Superintendent may cancel the license of any contractor whenever the license of any person so licensed on his behalf is liable to be cancelled under this Act.

Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person licensed to be a sub-contractor or recruiter on his behalf.

* Sec. 16 has been substituted for the original by the Inland Emigration Act (VII. of 1893), sec. 8.

19. Every contractor shall establish and maintain, at such places as the Local Government may direct, suitable depots for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed to act on his behalf, and shall provide at his own expense all necessary food, clothing, and medical treatment for such labourers during their stay at such depots.

Contractor to establish depots.

20. No such depot shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector. Every such depot shall be under the supervision of the Superintendent, the Magistrate of the district, or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate of the district, or such officer, and by the Medical Inspector.

Inspection and supervision of depots.

Whenever the Superintendent considers that any such depot is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the using of such depot for the reception and lodging of labourers.

21. In addition to the depots hereinbefore provided for, the Local Government may establish a separate hospital-depot for the reception of labourers suffering from any dangerously infectious or contagious disease.

Establishment of hospital-depots.

22. Whenever any such hospital-depot is established by any Local Government, such Government may require any contractor having a depot in the neighbourhood of such hospital-depot to contribute to the expense of the establishment and maintenance of such hospital depot, such reasonable sum as it may direct. Such sum may be recovered as an arrear of land-revenue due from any contractor so required.

Contractor to contribute towards establishment and maintenance of hospital-depot.

Every hospital-depot so established shall be under the charge of a Medical Officer appointed by the Local Government. Any Medical Inspector may direct the transfer of any labourer from a depot established within the local limits of his jurisdiction to a hospital-depot established within such local limits.

B.—Recruiters.

23. Any Superintendent empowered in this behalf by the Local Government may, on the application of any contractor, or of any sub-contractor acting on behalf of a contractor, grant to such persons as he thinks fit licenses to be recruiters on behalf of such contractor within the whole or any specified part of the local area for which such contractor has been licensed.

Superintendent may license recruiters.

24. Every license to a recruiter shall be in such form and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may by rule prescribe.

Form of, and fee for, recruiter's license.

25. No such license shall be granted for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules made hereunder, or is guilty of any other misconduct, any such license may be cancelled by the Superintendent who granted the same.

Period for which license is granted.

26. Every recruiter shall hold a certificate in writing, authorizing him to act as such, and signed by the contractor or sub-contractor on whose application he was licensed.

Recruiter must hold a certificate.

27. No recruiter shall, in any local area, engage or attempt to engage any person as a labourer unless such recruiter's license bears the countersignature of a Magistrate having jurisdiction throughout such local area.

Countersignature of recruiter's license.

No such Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate mentioned in section 26, and that sufficient and proper accommodation has been provided in a suitable place, and is available for such labourers, or persons intending to become labourers, as may be collected by such recruiter pending their removal to a depot.

28. Every Magistrate shall have, for the supervision, inspection, and regulation of the place situate within the local limits of his jurisdiction where such accommodation is provided, the same powers as are by this Act conferred on the Superintendent in respect of depots.

Magistrate to supervise accommodation.

Any Magistrate of a district or division of a district may authorize any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such place at any time; and all recruiters or other person in charge of such place shall afford to Subordinate Magistrates and officers of police so authorized every facility for making such visits and inspections.

29. If any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 27 has become insufficient or improper, or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license, and may cancel his countersignature thereon, or he may impound the license, and send it for cancellation to the Superintendent who granted the same.

Magistrate may cancel countersignature in certain cases.

Every Magistrate refusing to countersign a recruiter's license, or cancelling his countersignature thereon, shall at once report such refusal or cancellation and the grounds thereof to the Superintendent who granted such license.

Notice to Superintendent of refusal to countersign or cancellation.

C.—Procedure before arrival at Depôt.

30. Every recruiter who desires to engage any person as a labourer shall appear with such person before such Medical Officer as the Local Government may appoint to examine such persons within the local limits of the jurisdiction of the Magistrate by whom such recruiter's license was countersigned, or, if no such officer has been appointed, before such Medical Officer as the Registering Officer before whom such person is taken for registration, as hereinafter provided, may direct.

Intending labourer to be taken for examination to Medical Officer.

The Medical Officer shall thereupon examine such person, and shall, if satisfied that he is in a fit state of health, and able in point of physical condition to proceed to the labour-district in which he intends to labour, give him a certificate to that effect.

31. Every person who obtains a certificate under section 30, together with any persons about to proceed to a labour-district as his dependents, shall thereupon be brought by the recruiter before the Registering Officer having jurisdiction within the local area for which such recruiter is licensed. The recruiter shall at the same time produce and show his license to such Registering Officer.

If certified to be fit, intending labourer to be brought before Registering Officer.

32. The Registering Officer shall thereupon inspect the certificate given under section 30, and the license of the recruiter, and, if he finds that such certificate has been duly given, and that the recruiter is duly licensed, shall then examine such person, with reference to his intended labour-contract, and explain the same to him.

Intending labourer to be examined by Registering Officer.

If it appears that such person is competent to enter into such contract, and understands the same as regards the locality, period, and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation, or mistake, and that he is willing to fulfil the same, the Registering Officer shall register in a book to be kept for the purpose such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependents as the Local Government may by rule prescribe; and the labourer and his dependents (if any) shall thereupon be deemed to be registered under this Act.

Intending labourer to be registered

33. The Registering Officer shall furnish to the person so registered a certified copy of such particulars written on substantial paper.

Copy of registration to be given to labourer.

34. Every officer registering any person under section 32 shall forthwith forward a certified copy of such particulars and the original certificate of the Medical

Copy of registration and medical certificate to be sent to Superintendent.

Officer regarding him to the Superintendent having jurisdiction over the depot to which such person is to proceed.

Fee for registration.

35. For every such person produced before a Registering Officer for the purpose of being registered as a labourer, the recruiter shall pay to the officer such fee, not exceeding one rupee, as the Local Government may by rule direct.

Recruiter when to remove person to depot.

36. No recruiter shall remove or attempt to remove any person to a depot, or induce or attempt to induce him to go to a depot, or to leave the local limits of the jurisdiction of the Registering Officer before whom such person ought to be brought under section 31, or aid or attempt to aid him in going to a depot, or leaving any such local limits, unless and until such person has been registered under section 32.

Conveyance of labourer to depot.

37. Every labourer shall, after he has been registered under section 32, be conveyed with all convenient despatch by the recruiter by whom he has been engaged to the depot established by the contractor on whose behalf such recruiter has been licensed.

Recruiter to accompany labourer, or depute person approved by Registering Officer.

All labourers shall, while proceeding to the depot, be accompanied throughout the journey either by the recruiter himself, or by a competent person deputed by him with the approval of the Registering Officer by whom such labourers have been registered. The Registering Officer shall give to the person so deputed a certificate under his signature, stating that he has been deputed for the journey to the depot.

Recruiter must provide food and lodging for labourer on journey.

38. Every recruiter or person deputed by him as aforesaid shall, throughout the journey to the depot, provide such labourer and his dependents (if any) with proper and sufficient food and lodging.

D.—Procedure at Contractors' Depôts.

Contractor to report arrival of labourer.

39. Within twenty-four hours after a labourer arrives at a depot, the contractor by whom such depot is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction such depot is situate, a notice in writing of such arrival, which notice shall be in such form, and shall contain such particulars, as the Local Government may by rule prescribe.

Duties of Medical Inspector.

40. The Medical Inspector shall, as soon as may be after the labourer arrives at the depot, examine such labourer and his dependents (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed.

The Medical Inspector shall give a certificate to the Superintendent, stating whether he is or is not satisfied of the fitness of the labourer and his dependents (if any) to undertake such journey.

41. If the Medical Inspector gives a certificate of fitness under section 40 with respect to any labourer, and, in the opinion of the Superintendent, there is no valid reason why such labourer should not enter into a labour-contract, such labourer and the employer with whom he intends to contract, or the agent of such employer, shall, within thirty days after the arrival of the labourer at the depot, execute a labour-contract in the presence of the Superintendent.

If certificate of fitness granted, labourer to enter into labour-contract.

42. Before the labourer executes such contract, the Superintendent shall personally explain it to him, and shall, after the same has been executed by such labourer and his employer, or the agent of such employer, attest such contract, and certify at the foot thereof that he has personally explained the same to the labourer.

Contract to be explained to labourer by Superintendent.

An abstract of every such contract shall be entered in a register to be kept by the Superintendent for the purpose; and, after such abstract has been so entered, one copy of the contract shall be given to the labourer, and the other to his employer or his employer's agent.

Abstract to be made of contract, and copies of contract given to labourer and employer.

42A.* If the employer with whom any labourer intends to contract, or the agent of such employer, has given notice to the Superintendent that before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a competent medical man and certified by him to be in a fit state of health and able in point of physical condition to reside and labour for hire in the labour-district in which the estate of such employer is situate, the Superintendent shall not permit such labourer to execute a labour-contract until such certificate from such medical man as aforesaid has been produced and shown to him.

Employer may require medical certificate as to fitness to labour previous to contract.

42B.* If the employer or his agent has directed that such examination shall be made by any medical officer in the service of Government, such officer making the examination shall be entitled to receive from such employer or his agent such a fee not exceeding eight annas for each labourer so examined as the Local Government may fix.

Medical officer entitled to fee.

43 In the following cases (namely) :—

Power to cancel contract and order payment of expenses home of labourer in certain cases.

(a) where the Medical Inspector, on making the examination required by section 40, or at any subsequent time during the stay at the depot of any labourer, finds that such labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, and

* Secs. 42A and 42B have been inserted by the Inland Emigration Act (VII. of 1893), sec. 9.

the Superintendent considers that such labourer has not dishonestly represented himself as fit to undertake such journey, or

(*b*) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any such labourer as makes it just to refuse to permit a labour-contract to be executed, or to rescind such contract if executed, or

(*c*) where the contractor on whose behalf or by whom the labourer has been registered does not, within thirty days after the arrival of such labourer at the depot, tender to him a labour-contract for execution under section 41, or the employer or his agent refuses or neglects to execute such contract as required by that section,

the Superintendent may cancel the labour-contract executed by such labourer, and in that case, or if no labour-contract has been executed, may order the contractor at once to pay such labourer such reasonable sum as is necessary to enable him to return to the place at which he was registered, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take any other steps he thinks necessary for the conveyance of such labourer to such place.

Labourer when to be lodged, &c., at depot till he can return home.

44. Any labourer who from his state of health is, in the opinion of the Medical Inspector, unfit to undertake such return-journey, shall be entitled to be fed, lodged, clothed, and (if necessary) medically treated at the depot at the expense of the contractor by whom such depot is maintained, until he is reported by the Medical Inspector to be fit to undertake such return-journey.

Contractor omitting to provide food, &c., for labourer.

If such contractor negligently or wilfully omits to provide food, lodging, clothing, or medical treatment for such labourer, the Superintendent may order the contractor at once to pay such reasonable sum as is necessary to provide such food, lodging, clothing, or medical treatment.

Like provisions in case of dependents and relatives.

45. When an order is made under section 43 with reference to any labourer, any person registered as his dependent, or any labourer being the wife, husband, son, or daughter of such labourer, may claim—

(*a*) to be conveyed at the expense of the contractor with such labourer to the place at which he was registered, and

(*b*) if such labourer is unable to travel, to be fed, lodged, clothed, and (if necessary) medically treated in the depot at the expense of the contractor until such labourer is able to travel; and the Superintendent may include such expenses in an order made under section 43 or section 44 with respect to such labourer.

Compensation to labourer for ill-treatment on the journey.

46. If, upon the arrival of any labourer at a depot, it appears that during the journey to the depot such labourer, or any person registered as his dependent, has suffered any ill-treatment at the hands of the recrui-

ter person deputed by him to accompany such labourer, or that such recruiter or such person has failed to provide the labourer or any person registered as his dependent with proper and sufficient food and lodging, the Superintendent may order the contractor by whom such depot is maintained to pay such labourer a reasonable sum by way of compensation.

Procedure when dependent declared unfit to proceed to labour district.

47. If the Medical Inspector has reason to think that any person registered as the dependent of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer whose dependent he is intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of such labourer was given. The provisions of sections 43 and 44 shall thereupon apply to such dependent as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Labourer and relatives entitled to be returned with dependent.

48. The labourer to whom such dependent is attached shall thereupon be entitled, if he or she so wishes, and if he or she be the husband, wife, son, or daughter of such dependent, to receive from the contractor at whose depot he or she arrived such reasonable sum as is necessary to enable him or her to return to the place where he or she was registered. If such labourer so return, then any other persons registered as his or her dependents, and any other labourer being the wife, husband, son, or daughter of such labourer, shall also be entitled to receive a like sum from such contractor.

Failure of contractor to pay sums ordered to be paid under section 43, 44, 45, 46, 47, or 48.

49. On failure of the contractor for twenty-four hours to comply with an order of the Superintendent to pay any sum ordered to be paid under section 43, section 44, section 45, section 46, section 47, or section 48, the Superintendent may pay the same to, or on behalf of, the labourer or dependent.

Every sum so paid shall be recoverable from the contractor with interest thereon at the rate of twelve per cent. per annum from the date of payment.

No further proof shall be required by any Court in any such case than that the Superintendent gave the contractor an order to pay such sum, and that the contractor for twenty-four hours failed to comply with such order.

Provisions for way-bill.

50. All labourers despatched from a contractor's depot to a labour-district shall, during their journey, be accompanied by a person appointed by such contractor. Such person shall take with him a way-bill in such form, and containing such particulars and instructions as the Local Government may prescribe.

He shall also present such way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions contained therein for his guidance.

CHAPTER IV.

RECRUITING BY GARDEN-SARDARS AND LOCAL AGENTS.

A.—Garden-sardars.

Employer may grant certificate to garden-sardar.

51. Any employer may grant to any person a certificate authorizing him, within such local area as may be specified in such certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which such employer is in charge.

Every person to whom such certificate has been granted is hearinafter called a garden-sardar.

If any labourer is granted a certificate under this section, his employment as a garden-sardar shall be deemed to be employment under his labour-contract.

Form and particulars to be contained in such certificate.

52. Every such certificate shall be in such form, and shall contain such particulars, as the Local Government of the territories in which it is granted may prescribe in this behalf.

Any employer granting a certificate to a garden-sardar may, before such certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom such garden-sardar is to report himself for orders, and the time within which he is to return to such employer, and any other instructions for his conduct that he may think proper.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

53. Every such certificate shall be accepted and signed by the garden-sardar in the presence of the Inspector or a Magistrate having jurisdiction over the place where the employer granting such certificate resides.

Inspector or Magistrate to countersign certificate.

54. Such Inspector or Magistrate shall inquire into the facts stated, in such certificate, and, upon being satisfied of the truth of the statement, shall, unless it appears to him that the person so accepting and signing such certificate is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date such certificate:

Provision for grant of fresh certificate.

55. On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, such Inspector or Magistrate may, without requiring the appearance of the garden-sardar, or making the inquiry prescribed by section 54, countersign a fresh certificate to be granted by such employer to such garden-sardar in renewal of any existing certificate.

Such fresh certificate to be forwarded to Magistrate of district where garden-sardar is employed, and to

Every such fresh certificate shall be forwarded by the Inspector or Magistrate countersigning it to the Magistrate of the district in which the garden-sardar to whom it is granted is employed; and such sardar shall,

be accepted and signed by garden-sardar.

on receiving notice from such Magistrate, appear before him, and accept and sign such fresh certificate in his presence.

Certificate when to come into force.

56. No certificate granted to a garden-sardar shall come into force unless and until it has been accepted and signed by the garden-sardar, and countersigned by the Inspector or Magistrate, and no such certificate shall continue in force for a longer period than one year from the date of its countersignature.

Accommodation to be provided by garden-sardar.

57. Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

The Magistrate of a district or of a division of a district, or a Magistrate subordinate to him, or an officer of police above the rank of sub-inspector authorized by him in this behalf, shall visit and inspect such accommodation; and all garden-sardars or other persons in charge of such places shall afford to such Magistrate, Subordinate Magistrate, or officer of police, every facility for making such visits and inspections.

In every such place the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Certificate may be cancelled in certain cases.

58. Whenever a garden-sardar contravenes any of the provisions of this Act, or the rules made hereunder, or is guilty of any other misconduct, any Magistrate, Superintendent, or Inspector, within the local limits of whose jurisdiction such garden-sardar is employed, may cancel his certificate.

B.—Local Agents.

Local agents may be licensed.

59. Any Superintendent authorized in this behalf by the Local Government may, on the application of any employer, grant licenses to persons to be local agents for the purpose of representing such employer within such local area for such period as such employer may desire:

Provided that no contractor shall be licensed as a local agent.

Powers and duties of local agents.

60. A local agent may, within such local area, represent his employer in all matters connected with the engagement of labourers; and shall furnish such information and make such returns as the Local Government may by rule direct.

Local agent may represent more than one employer.

61. The Superintendent authorized as aforesaid may, on the application of any employer other than the employer on whose application a local agent has been licensed, make an order in writing, permitting such agent to become the local agent of such additional employer within the local area for which he was licensed. The Superintendent making such order shall forthwith send a copy thereof to

the Magistrate of the district in which such agent resides; and such Magistrate shall, on the agent's application, insert in his license the name of such additional employer.

Local agent may be specially licensed to contract direct with labourers.

62. Any Superintendent authorized as aforesaid may, with the consent of all the employers of a local agent, grant a special license to such agent, permitting him to engage, on behalf of any employer specified in such special license, but without the intervention of a garden-sardar, persons to be labourers.

Every agent, when so engaging persons to be labourers, may, if he thinks fit, appear with them for registration before a Registering Officer, and require them, when so registered, to execute a labour-contract, and, in such case, shall, for the purposes of this Act, be deemed to be a garden-sardar.

Local agent may prosecute garden sardar.

63. When any garden-sardar to whom a certificate has been granted under this Act by any employer commits any offence punishable under this Act, any local agent of such employer may prosecute the sardar for such offence.

On what grounds local agent's license may be cancelled.

64. The Magistrate of any district within which a local agent acts as such may by order cancel the license of such local agent if the employer so require, or if it is shown to the satisfaction of such Magistrate that such local agent has—

(*a*) employed any contractor's recruiter to engage on his behalf persons to be labourers; or

(*b*) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under such local agent's control; or

(*c*) allowed any garden-sardar under his control to transfer persons engaged as labourers by such sardar to contractors or to their recruiters, or to any employer other than the employer by whom such sardar's certificate was granted; or

(*d*) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom such sardar's certificate was granted.

An appeal shall lie to the Local Government from any order made under this section, clause (*a*), (*b*), (*c*), or (*d*). Such appeal must be presented within three months next after the date of the order, and the decision of the Local Government thereon shall be final.

C.—Procedure to be followed by Garden sardar.

Garden-sardar and labourer to appear before Registering Officer for registration.

65. Every garden-sardar who desires to engage any person as a labourer shall appear with such person, together with any persons about to proceed to a labour-district as dependents of such person, before the Registering Officer having jurisdiction within the local area specified in the certificate of such sardar.

66. The Registering Officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that such certificate is in force, shall examine, with reference to the intended labour-contract, the person whom the sardar so desires to engage, and explain the contract to such person.

Registration of persons engaged by garden-sardar.

If it appears that such person is competent to enter into such contract, and understands the nature of the same, as regards the locality, period, and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation, or mistake, and that he is willing to fulfil the same, the Registering Officer shall register in a book to be kept for the purpose such particulars regarding him and his dependents (if any) as the Local Government may by rule prescribe; and the labourer and his dependents (if any) shall thereupon be deemed to be registered under this Act.

67. If it appears to such officer that any such person, or any dependent of such person, is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the officer may, before registering any such person or dependent, if himself a medical man, medically examine such person or dependent, or, if not himself a medical man, send such person or dependent to a medical man for such examination. If upon such examination such person or dependent is declared unfit to undertake the journey to such place, the officer may refuse to register such person or dependent.

Medical examination.

68. For every person appearing before a Registering Officer for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the officer such fee not exceeding one rupee as the Local Government may direct.

Fee to be paid for every labourer produced for registration.

69. When any person has been registered under section 66 as a labourer, he shall, within fifteen days from the day on which he was so registered, execute a labour contract with the employer with whom he intends to contract. Such contract shall be signed in the presence of the Registering Officer by such person and, on behalf of the employer, by the garden-sardar who appears with such person before such officer. The officer shall satisfy himself that the contract is in accordance with any instructions specified in the certificate of the garden-sardar. If the officer is so satisfied, he shall, before the labourer signs the contract, personally explain it to him, and shall, after the same has been executed as aforesaid, attest such contract, and certify at the foot thereof that he has personally explained the same to the labourer.

Labour-contract to be executed.

An abstract of every such contract shall be entered in a register to be kept for the purpose by the Registering Officer, and, of the two copies of the contract, one shall then be given to the labourer, and the other to the garden

If any garden-sardar, without reasonable cause, refuses or neglects to execute a contract with a labourer as required by this section within fifteen days from the day on which he was so registered, the Registering Officer may order such sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as such officer thinks fit.

Procedure when employer requires medical examination previous to registration.

70. If the employer of a garden-sardar has, in the instructions specified in the certificate of the sardar, directed that all labourers engaged by him shall, before registration, be examined by a competent medical man, and certified by him to be in a fit state of health to undertake the journey to, and labour in, the labour-districts to which they intend to proceed, no Registereing Officer shall register as a labourer any person appearing before him with such sardar until such certificate from such Medical Officer as aforesaid has been produced and shown to him.

Medical Officer entitled to fee.

71. If the employer has, in the instructions specified in the certificate of the garden-sardar, directed that such examination shall be made by any Medical Officer in the service of Government, such officer making the examination shall be entitled to receive from the local agent or sardar such a fee not exceeding eight annas for each labourer so examined as the Local Government may fix.

Garden-sardar when to remove labourer to labour-district.

72. Unless and until a person engaged as a labourer has been registered under section 66, no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area specified in the certificate of such sardar, or aid or attempt to aid him in proceeding to a labour-district, or in leaving any such local area.

Garden-sardar to accompany labourers, or send competent person with them.

73. A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer; or if his employer has no local agent, with the approval of the officer by whom such labourers were registered.

When the number of labourers (exclusive of dependents) proceeding on their journey to such labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardar.

74. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 73, any number of labourers may be despatched at the same time to the labour-districts.

75. Any garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if such employer has no local agent, with the previous consent in writing of such employer, be appointed under section 73 as a competent person to accompany labourers other than those engaged by him.

In certain cases garden-sardar may be appointed to accompany labourers not engaged by him.

76. Every garden-sardar or person appointed by him as aforesaid, who accompanies labourers to the labour-districts, shall present to the officer by whom such labourers have been registered a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe. He shall also present such way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions contained therein for his guidance.

Provision for way bill.

77. Every garden-sardar or person appointed by him as aforesaid, who accompanies labourers to the labour-districts, shall provide such labourers and their dependents (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar must provide food and lodging for labourers and dependents on journey.

78. If it appears to any Magistrate, on the complaint of any such labourer at any place on the journey, that he or any person registered as his dependent has suffered any ill-treatment during the journey at the hands of the garden-sardar or person appointed by him accompanying such labourer, or that such sardar or person has failed to provide such labourer or any of his dependents with proper and sufficient food and lodging, or has wilfully abandoned such labourer or any of his dependents, such Magistrate may either order the sardar or person so appointed to pay to such labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by such labourer, and order such sardar or person to pay to such labourer such reasonable sum as is necessary to enable him with his dependents (if any) to return to the place at which he was registered.

If such be not provided, Magistrate may award compensation or cancel contract.

79. On failure for twenty-four hours by any garden-sardar or person appointed by him as aforesaid to comply with an order under section 78 to pay any sum, the Magistrate may pay the same to, or on behalf of, such labourer.

Procedure on failure of garden sardar to comply with order.

Every sum so paid shall be recoverable from the employer by whom the certificate of such garden-sardar was granted, or from the local agent of such employer, with interest thereon at the rate of twelve per centum per annum from the date of payment.

No further proof shall be required by any Court in any such case than that the Magistrate gave such garden-sardar or person an order to pay such

sum, and that such garden sardar or person for twenty-four hours failed to comply with such order.

Medical inspection of labourers *en route*.

80. Any Magistrate or any Embarkation Agent may, if himself a medical man, examine, and, if not himself a medical man, send for examination by a medical man, any labourer or dependent who, while on the journey to the district to which he intends to proceed, appears to such Magistrate or Agent not to be in a fit state of health to proceed thereto.

Detention and return of labourer declared, when *en route*, to be unfit to travel.

81. If such labourer or dependent is on such examination declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order him to be detained at such place as he thinks fit, until the labourer or dependent is in a fit state of health to undertake such journey, when he shall either be forwarded to such district, or sent back to the place where he was registered, according as the garden-sardar or person appointed by him accompanying such labourer or dependent, or the employer by whom the certificate of such sardar was granted, or his local agent, may direct.

While any labourer or dependent is so detained, he shall be entitled to be fed, lodged, clothed, and (if necessary) medically treated at the cost of the employer with whom such labourer, or the labourer to whom such dependent is attached, has contracted to labour.

Dependents of labourer when to be fed, &c.

82. When an order under section 81 has been made with reference to any labourer, any person registered as his dependent, and any labourer being the wife or husband of such labourer, shall be entitled—

(*a*) until such labourer is in a fit state of health to undertake such journey, to be fed, lodged, clothed, and (if necessary) medically treated at the place where such labourer is detained, and at the cost of the employer with whom such labourer has contracted to labaur, and

(*b*) if such labourer is sent back to the place where he was registered, to be sent back to such place.

Labourer to whom dependent is attached when to be fed, &c.

When any such order has been made with reference to any dependent, the labourer to whom he is attached shall thereupon, until such dependent is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she be the husband, wife, son, or daughter of such dependent, to be fed, lodged, clothed, and (if necessary) medically treated at the place where such dependent is detained, and at the cost of the employer with whom such labourer has contracted to labour; and, if such dependent is sent back to the place where he was registered, such labourer shall, if he or she so wishes, and if he or she be the husband, wife, son, or daughter of such dependent, be sent back to such place.

If such labourer is entitled and claims to be so fed, lodged, clothed, and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependent, and any other labourer being the wife or husband of such labourer, shall be entitled, as the case may be—

(*a*) to be fed, lodged, clothed, and (if necessary) medically treated at the place where such dependent is detained, and at the cost of such employer, until such dependent is in a fit state of health to undertake the journey to the labour-district, or

(*b*) to be sent back to the place where he or she was registered.

Payment of expenses of detention and return-journey of labourer.

83. If the garden-sardar or person appointed by him accompanying any labourer or dependent fails to provide such labourer or dependent with food, lodging, clothing, and medical treatment, or to send him back as required by section 81 or section 82, the Magistrate or Embarkation Agent may order such sardar or person to pay such sum as is necessary to provide such food, lodging, clothing, and medical treatment, or to defray the cost of the return-journey of such labourer or dependent, as the case may be, to the place where he was registered ; and, on failure for twenty-four hours of such sardar or person to comply with such order, he may pay the sum specified in the order to, or on behalf of, such labourer or dependent.

The provisions of section 79 shall, *mutatis mutandis*, apply to the recovery of sums paid by the Magistrate or Embarkation Agent under this section.

Agent in Calcutta may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

84. If any labourer whose labour-contract has been executed by a garden-sardar on behalf of his employer is brought to Calcutta on his way to the district in which he has contracted to labour, any person empowered to act as the agent or representative of such employer may require such labourer to appear before the Superintendent for the cancellation of such contract. If such reasonable sum as is necessary to enable such labourer and his dependents (if any) to return to the place at which he was registered, " and such further sum (if any) by way of compensation as the Superintendent thinks reasonable,"* be paid to such labourer in his presence, the Superintendent may declare the contract cancelled, and in that case shall make an endorsement to that effect on the labourer's copy of the contract, and attest it with his signature.

In that case contracts of relatives to be cancelled.

85. When the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son, or daughter of such labourer, and who may have entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time. On such claim being made, the

* The words quoted have been inserted by the Inland Emigration Act (VII. of 1893), sec. 10.

Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the agent or representative of the claimant's employer to pay to the claimant such reasonable sum as is necessary to enable him and his dependents (if any) to return to the place at which he was registered.

On failure for twenty-four hours of the agent or representative to comply with such order, the Superintendent may pay the sum specified in the order to or on behalf of the claimant; and the provisions of section 79 shall, *mutatis mutandis*, apply to the recovery of any sum so paid.

CHAPTER V.

TRANSPORT BY RIVER.

A.—Passenger Vessels.

Transport by sea to labour-districts.

86. Nothing in this chapter shall apply to the transport by sea of natives of India to the labour-districts.*

Vessels to carry more than 20 passengers must be licensed.

87. No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in such vessel has been granted to him by an Embarkation Agent duly empowered in that behalf by the Local Government.

Power to exempt vessels.

The Local Government may, by notification in the official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

88. The master or owner of any vessel who desires to obtain a license under this Act to carry passengers in such vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

Contents of application.

Every such application shall state such particulars respecting the vessel as the Local Government may by rule prescribe.

Grant of license.

89. If such Embarkation Agent is of opinion that the vessel is in all respects suitable for carrying passengers, being natives of India, to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, which may be received on board.

Fee for license.

90. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of such vessel, by rule direct, shall be paid for every such license. No such license shall be in force for more than one voyage:

* The words, "of Chittagong and the Chittagong Hill Tracts," have been omitted, having been repealed by the Inland Emigration Act (VII. of 1893), sec 11.

Provided that the Embarkation Agent may, from time to time, with the previous sanction of the Local Government, grant a license to the master of any vessel for any term not exceeding one year, on payment of such fee not exceeding one hundred rupees, and on such conditions, as the Local Government may by rule direct.

Provision for annual licenses.

91. Any Embarkation Agent may, in accordance with such rules as the Local Government may prescribe in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed hereunder shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to such master.

Embarkation Agent may limit number to be received on board on any particular voyage.

92. In computing the number of persons on board of any vessel, two children under the age of ten years shall, for the purposes of this Act, be reckoned as one person only.

Two children under ten to be counted as one person.

93. Every master to whom a license is granted hereunder shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel as the Local Government may by rule prescribe.

Master to make returns.

94. Every such master shall have on board his vessel carrying labourers and their dependents such supplies of provisions and clothing, and such medical and other officers, cooks, and attendants, as the Local Government may by rule prescribe.

Provisions, clothing, medical and other officers, cooks, &c.

95. No Medical Officer shall be appointed to any vessel in respect of which a license is granted hereunder unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any Medical Officer not so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such requisition.

Medical officer to be licensed.

B.—Departure of Passenger Vessels and Procedure during Voyage.

96. Whenever it appears to any Embarkation Agent that the departure of any vessel in respect of which a license is granted hereunder is unduly delayed beyond the date fixed by order of a Superintendent or the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of such vessel to proceed on his voyage at once.

Embarkation Agent may order departure of vessel if delay occurs.

97. No master licensed hereunder shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relat-

Master to receive way-bills from Ebarkation Agent.

ing to all labourers on board. The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of labourers on board corresponds with the number entered in such way-bills.

The Embarkation Agent shall send a copy of such way-bills to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not allowed finally to leave vessel at any place other than that mentioned in way-bill.

98. No such master shall cause or permit any labourer finally to leave his vessel at any place other than that named in the way-bill as the destination of such labourer:

Provided that this section shall not be deemed to prevent the master of any vessel from permitting such labourers to disembark at any place or places on the voyage so long as such disembarkation is not intended or known to be likely to be final; nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependents to any other vessel in case of accident or other unavoidable necessity. Such accident or necessity shall be forthwith reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which such accident has occurred or necessity has arisen.

Master to stop his vessel at certain places where there is a Magistrate.

99. Every master licensed hereunder shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct. Such master shall, on arriving at any such place, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

Magistrate may at any time inspect vessel.

100. A Magistrate may, while any vessel in respect of which a license is granted hereunder is within the local limits of his jurisdiction, go on board such vessel, and inspect the vessel and all persons, being natives of India, on board. The

Master bound to give all information required.

master and officers of such vessel shall afford to such Magistrate every facility for such inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which may have occurred on board, and any other facts which may affect the health of the passengers.

Magistrate may regulate communication between vessel and land.

101. At any time while any such vessel is within the local limits of his jurisdiction, the Magistrate may regulate the communication between such vessel and the land, and may prohibit all persons from leaving such vessel, and all persons on land from proceeding on board her.

102. Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board any such vessel, within the local limits of his jurisdiction, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain such vessel, and require the Civil Medical Officer of the district or other qualified Medical Officer to inspect such passengers, and to report on their health, stating whether any or what measures are requisite for the removal or prevention of such disease. After the receipt of such report, the Magistrate may order any such passenger suffering from any such disease to be disembarked and detained for medical treatment. If, in the opinion of the Inspecting Medical Officer, it is dangerous to the health of the general body of the passengers to allow such vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out such measures.

Magistrate may detain vessel for inspection and for removal of disease, and may detain sick native passengers.

103. If, on receiving a report of a Medical Officer, it appears to a Magistrate that any labourer or any dependent of any labourer, though not suffering from any such disease as last aforesaid, is not in a fit state of health to proceed to the labour-district in which such labourer has contracted to labour, he may order such labourer or dependent to be detained, and shall cause all necessary arrangements to be made for the accommodation, support, and medical treatment of the labourer or dependent so detained.

Magistrate may detain sick labourers;

and shall arrange for their accommodation and treatment.

104. All expenses incurred under section 103 by a Magistrate in respect of any labourer or dependent so detained shall be recoverable from the employer of such labourer, together with interest at six per centum per annum.

Expenses how to be recovered.

105. Whenever it appears to a Magistrate making an inspection of any vessel, in respect of which a license is granted hereunder, that the number of passengers on board, being natives of India, is larger than the number specified in such license, or than the number specified in an order of an Embarkation Agent made under section 91, he may remove the excess number, and detain them until another opportunity of forwarding them to their destination is found. The necessary expense of maintaining such passengers while so detained, and of forwarding them to their destination, shall be paid by such Magistrate, and shall be recoverable from the master or owner of such vessel.

Measures to be taken if excess number of native passengers is found on board.

106. Whenever, on making an inspection of any vessel in respect of which a license is granted hereunder, a Magistrate finds that any of the provisions of this Act, or of any rule of the Local Government made hereunder, have not been complied with in respect of such vessel, he shall report the same to the Embarkation

Infraction of the Act and rules to be reported.

Agent by whom such license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Vessel may be detained.

Power to make rules regulating disembarkation and other matters.

107. The Local Government may make rules regulating—

(*a*) the disembarkation of labourers and their dependents, and their inspection and accommodation on arrival at their destination;

(*b*) the detention of such labourers or dependents at debarkation-depots;

(*c*) the forwarding of labourers to their destination, and the closing and return of way-bills by employers.

All expenses incurred by any Magistrate or Debarkation Agent in accordance with such rules shall be recoverable from the employers of such labourers, together with interest at the rate of twelve per centum per annum.

Magistrate may depute a Subordinate Magistrate to discharge the functions of the Magistrate.

108. The Magistrate of a district, or of a division of a district, may, from time to time, authorize any Subordinate Magistrate, Medical Officer, or officer of police above the rank of sub-inspector, to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 99 to 106, both inclusive.

CHAPTER VI.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

A.—Annual Rate payable by Employers.

Annual rate payable by employer.

109. Every employer shall, on the first day of January and the first day of July in each year, pay, in respect of each labourer then in his employ, such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the official Gazette, direct.

Payment of rate how to be enforced.

110. If any employer fails, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due by him under the provisions of the last preceding section, such sum shall be recoverable as if it were an arrear of land-revenue due from such employer.

B.—Local Labour-contracts.

Labour-contracts executed in labour-districts between employer and native direct.

111.* Any employer may enter into a labour-contract for any term not exceeding one year commencing from the date of the execution of the contract with any native of India within the labour-district in which the

* Secs. 111, 111A, 111B, 112, 112A, and 112B, have been substituted for the original secs. 111 and 112 by the Inland Emigration Act (VII. of 1893), sec. 12.

estate on which such native contracts to labour is situated. When any employer has executed any such contract with any such native within a labour-district, he shall, within one month from the date of the execution of such contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction such estate is situated. On receipt of the contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the contract to the labourer, and the other copy to his employer.

Registration of such contracts.

111A.* When, for the first time after the registration of any such contract with a labourer, the Inspector visits the estate on which such labourer is employed, the employer shall cause such labourer to appear before the Inspector for the purpose of having his contract verified, and such labourer may thereupon apply to the Inspector to cancel the contract; and, if he shows cause sufficient in the opinion of the Inspector to justify the cancellation, the Inspector shall cancel the contract, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or if such copy be not forth coming, shall give to the labourer a certificate to that effect.

Verification and cancellation of such contracts.

111B.* The Inspector or Magistrate may at any time, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a contract under section 111, and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his contract verified; and, if such labourer applies to the Inspector or Magistrate to cancel his contract, and shows cause sufficient in the opinion of the Inspector or Magistrate to justify such cancellation, the Inspector or Magistrate shall cancel the contract as provided in the last preceding section.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

112.* Notwithstanding the provisions of section 111, any employer may enter into a labour-contract with any native of India in a labour-district for any term not exceeding four years commencing from the date of the execution of the contract if he appears either in person or by agent with such native before the Inspector or Magistrate within the local limits of whose jurisdiction the estate upon which such native is about to contract to labour is situated.

Labour-contracts executed within labour-districts before Inspector or Magistrate.

Such Inspector or Magistrate shall thereupon explain the labour-contract to such native, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or his agent to execute it in his presence; and, if they execute it, shall attest such execution with his signature.

* Secs. 111, 111A, 111B, 112, 112A, and 112B, have been substituted for the original secs. 111 and 112 by the Inland Emigration Act (VII. of 1893), sec. 12.

An abstract of every such labour-contract shall be entered in a register to be kept by the Inspector or Magistrate for the purpose ; and one copy of such contract shall then be given to the labourer, and the other copy to his employer or his agent.

In respect of every labour-contract an abstract whereof is registered under section 111 or under this section, the employer who executes such contract in person or by agent shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may from time to time direct.

Execution of labour-contract before Inspector or Magistrate of Dhubri.

112A.* For the purposes of the last preceding section an estate situated in any one of the following districts of the Assam Valley Division, namely, Kamrup, Darrang, Nowgong, Sibsagar, and Lakhimpur, shall be deemed to be also situate within the local limits of the jurisdiction of the Inspector and Magistrate resident at the civil station of Dhubri in the Goalpara District ; and, subject to such rules as the Local Government may prescribe in this behalf, contracts to labour on any estate in any of the labour districts above named may be executed and registered before the Inspector or Magistrate at Dhubri in accordance with the provision of the last preceding section.

Power of Local Government to frame rules in connection with the execution of labour contracts at Dhubri.

112B.* The Local Government may, after previous publication, make rules consistent with this Act with respect to all or any of the following matters, namely :—

(*a*) the execution and registration of contracts under section 112A before the Inspector or Magistrate at Dhubri ;

(*b*) the medical examination at Dhubri by the Civil Surgeon or other competent medical man of labourers and persons intending to become labourers and their dependents ;

(*c*) the conditions under which depots, rest-houses, and other places, may be established and maintained at Dhubri for the reception and lodging of labourers and persons intending to become labourers and their dependents ; the sanitation and management of such depots, rest-houses, and other places ; the arrangements for food, water and conservancy therein ; the clothing and necessary utensils to be supplied to persons lodged therein ; and the hospital accommodation for, and medical treatment of, such persons ;

(*d*) the control and inspection by officers of Government of such depots, rest-houses, and other places ; and

(*e*) the registers to be kept, and the reports and returns to be made, by the persons in charge of such depots, rest-houses, and other places.

* Secs. 111, 111A, 111B., 112, 112A, and 112B, have been substituted for the original secs. 111 and 112 by the Inland Emigration Act (VII. of 1893), sec. 12.

C.—Employers' Returns and Magistrates' Inspections.

Registers to be kept and returns made by employers.

113. Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, in such form, and shall make to the Inspector within the local limits of whose jurisdiction such estate is situate such periodical returns in writing, as the Local Government may by rule prescribe. The Inspector may examine such registers and muster all labourers and other persons employed on any estate within such local limits, and may verify the accuracy of the entries in such registers, or in any prescribed periodical return.

Powers of Inspector or Magistrate to inspect lands and houses and to make requisitions and inquiries.

114.* Any Inspector or Magistrate or any person authorized by either of them in writing in this behalf may at any time enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or natives, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives or any of them, and the employer shall be bound to comply with such requisition and to answer such inquiries to the best of his ability.

D.—Regulation of Labour.

Schedule of task-work to be prepared.

115. Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which such employer is in charge, and may, from time to time, alter any schedule so prepared.

One copy of every such schedule shall be filed in a book which shall be open to the examination of the Inspector, and another copy thereof in the Bengali language shall be stuck up in some conspicuous place accessible to the labourers to whom such schedule relates.

The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the "number of working days in the current month. The number of working days in any month shall be ascertained by deducting the number of Sundays from the whole number of days in the month." †

Limitations and conditions of task-work.

116. No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in any one day. Every labourer shall, for one day in each week, receive wages as for a full task done, without being required to labour for the same. The employer shall, on six days in each week, provide for each labourer work sufficient to enable him to

* Sec. 114 has been substituted for the original by the said Act VII. of 1893, sec. 18.

† The words quoted have been substituted for the words, "whole number of days in the current month," by the Inland Emigration Act (VII. of 1893), sec. 14.

earn at least his minimum daily wage. Failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

Provisions for revision of schedule by Inspector subject to appeal to Committee.

117. If the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that a reduction specified in such order be made of such tasks. The employer shall at once make such reduction, but may, if dissatisfied with the Inspector's order, by notice in writing require the Inspector to refer the schedule to a committee for consideration. Such committee shall consist—

(*a*) of the Inspector,

(*b*) of some person to be nominated by the employer whose schedule is to be considered, and

(*c*) if practicable, of a Medical Officer.

Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominated a person.

When the committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

Committee to revise schedule.

118. If such committee, or a majority thereof, is of opinion that the daily tasks specified in such schedule, or any of them, are unreasonable, they shall modify and reduce them in such manner as they think fit. The employer shall thereupon alter his schedule accordingly, and copies of the schedule so altered shall be filed and stuck up in the manner directed in section 115, and shall, as between him and the labourers concerned, take the place of the former schedule.

Provision for weakly labourers.

119. Notwithstanding anything contained in any such schedule, the Inspector may order that any specified labourer, who is, in his opinion, unable, from weakness, to earn by his labour the sum of one anna and-a-half per diem, according to the said schedule, shall receive, in lieu of such actual earnings, subsistence allowance at the rate of one anna and-a-half per diem, or diet on a scale to be approved by such Inspector. Such subsistence-allowance shall be recoverable as if it were an arrear of wages.

E.—Incapacity for Labour.

Inspector may suspend contract of any labourer temporarily unfitted for labour.

120. The Inspector within the local limits of whose jurisdiction any labourer is employed may release such labourer, for such period as he thinks fit, from performing his labour-contract, if he be, in the judgment of such Inspector, temporarily unfitted for the performance thereof by reason of sickness or other sufficient cause.

Every such release shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve. Every

such labourer shall, during such release, receive such subsistence-allowance from his employer as the Inspector thinks sufficient.

Labourer absent from sickness.

121. If any labourer is compelled to absent himself from work on account of sickness, he shall receive from his employer for each day of such absence subsistence allowance of one anna and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

If such absence exceeds the total number of thirty days in any one year, and the employer, as soon as such number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of such number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and-a-half for each day so in excess.

"The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time on the application of either the employer, or the labourer, endorse on the labourer's labour-contract, after such enquiry as may be necessary, the number of days so to be added to the term thereof:*

"Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract, when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for such endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned."*

Discharge of labourer permanently incapacitated.

122. If, in the opinion of the Inspector, any labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing, and deliver such certificate to the employer of such labourer or his agent; and from the date of such certificate the labour-contract of such labourer shall wholly determine. Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

Such sum and any subsistence-allowance mentioned in sections 120 and 121 shall be recoverable as if they were arrears of wages.

F.—Accommodation for Labourers.

House-accommodation, water-supply, and sanitary arrangements to be provided.

123. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply, and sanitary arrangements as the Local Government may by rule direct.

* The paragraphs quoted have been substituted by the Inland Emigration Act (VII of 1893), sec. 18, for the following sentence, which was originally enacted: "The Inspetor shall, from time to time, when visiting the estate, endorse on the labourer's labour-contract, after such inquiry as may be necessary, the number of days so added to the term thereof."

Supply of food-grain by employer.

124. When the food-grain commonly used by any class of labourers is not procurable by such labourers at reasonable prices in the local markets near the estate on which such labourers are employed, the employer of such labourers shall be bound to supply them with such grain at a reasonable price. The Local Government may, by notification in the official Gazette, determine, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

Provisions for rationing.

125. Subject to any rules which may be made by the Local Government in this behalf, any Inspector may, by order in writing,—

(*a*) direct that, on any specified estate within the local limits of his jurisdiction, all the labourers or any specified class of labourers shall be furnished by their employer with rations, cooked or uncooked, on such scale, for such period not exceeding three months from the date of their arrival on the estate, as may be specified in such order;

(*b*) exempt any specified labourer from the effect of any such general order if he is satisfied that such labourer is able to earn a full wage, and desires to provide himself with proper and sufficient food;

(*c*) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew any such order for a like term.

The cost of each labourer's ration furnished to him in accordance with any order made under this section shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which such order is in force.

Provision for hospital-accommodation and medical attendance.

126. If any employer does not, in the opinion of the Inspector, provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of such labourers as the Local Government may direct, the Local Government may require such employer to contribute to the support of a central hospital to be established, or to the pay of a Medical Officer to be appointed, for the medical treatment of such labourers, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Inquiry whether employer has failed to provide accommodation, &c., as required by the rules.

127. Any Inspector or Assistant Inspector who is himself a Magistrate may, with respect to any estate situate within the local limits of his jurisdiction, institute an inquiry whether the employer in charge of such estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains, and rations in accordance with the rules prescribed by the Local Government. At the instance of any Inspector or Assistant Inspector a similar inquiry may be made by a Magistrate. Every such inquiry shall be held at some

place on the estate to which it relates, or within ten miles of such estate, and shall be conducted and dealt with as if it were an inquiry of a Magistrate under the Code of Criminal Procedure.*

G.—Localities unfit for the Residence of Labourers.

Inspector to report.

128. If, in the opinion of the Inspector, any estate or portion of an estate situate within the local limits of his jurisdiction is at any time, by reason of climate, situation, or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice in writing of such opinion to the Magistrate of the District; and such Magistrate shall forthwith, by order in writing, summon a Committee to inquire into the matter.

Magistrate to summon Committee.

The Magistrate of the District may also of his own motion summon such a Committee, if either from his own observation or upon the report of an Inspector, Magistrate, or Medical Officer, he is of opinion that any estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers †

Such Committee shall consist of the Magistrate, the Inspector, the Medical Officer of the district, and one or more employers of labourers, when such employers are available.

If the Magistrate is unable to procure the service on such Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on such Committee.

Local Government may order Committee.

128A ‡ If it appears to the Local Government, upon the report of an Inspector, Magistrate, or Medical Officer,—

(*a*) that any estate or portion of an estate is, for any of the reasons given in the last preceding section, unfit for the residence of labourers or of any particular class of labourers, or

(*b*) that the percentage of mortality of labourers or of any particular class of labourers employed on any estate or on any portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 130 of this Act,

the Local Government may direct the Magistrate of the District to summon a Committee under the last preceding section; and the Magistrate of the District shall forthwith proceed to summon a Committee accordingly.

Proceedings of Commitee.

129. Such Committee shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing the Committee relates, and shall hear and record such information on the subject as the owner of such

* See Act X. of 1882, sec. 3.

† This paragraph has been inserted by the Inland Emigration Act (VII. of 1893), sec. 16.

‡ Sec. 138A has been inserted by the said Act VII of 1893, sec. 17.

estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

If such Committee, or the majority thereof, is of opinion that such estate or portion, or any part of such estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, it shall record a finding to that effect.

If Committee finds estate unfit, labour contract to be void as regards such estate.

When such finding has been recorded, no labourer, or no labourer of the particular class to which such finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of such estate or portion, as the case may be, which is found unfit for the residence of such labourers.

When any labourer is released under this section from the performance of a labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to his employer and situate in the same labour-district; or, where the finding relates only to a portion or part of an estate, on any other portion or part of the same estate.

Labourer bound to labour elsewhere.

Where the finding relates to the whole of any estate, and the employer has no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of such labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if such copy be not forthcoming, shall give to the labourer a certificate to that effect.*

129A† The Local Government may call for the proceedings of any Committee summoned under section 128 or section 128A of this Act, and if the finding of such Committee is not unanimous, the Local Government may record any finding thereon which such Committee was competent to record, and such finding shall have the same effect as the finding of a Committee under section 129.

Local Government may pass orders on proceedings of Committee.

130. Whenever it appears to the Local Government "or the Magistrate of the District"‡ that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per centum, the Local Government "or the Magistrate of the District"‡ may direct the Civil Medical Officer of the district or other

Local Government how to proceed if mortality in past year exceeds seven per cent. or if the average mortality for three years exceeds seven per cent.

Matters to be inquired into.

* This paragraph has been added by the Inland Emigration Act (VII. of 1893), s. 18.
† Sec. 129A has been inserted by the said Act (VII. of 1893), sec. 19
‡ In sec. 130, the words quoted have been inserted by the said Act (VII. of 1893), sec. 20.

qualified Medical Officer to inquire into and report on the following matters :—

(*a*) the cause or causes of such mortality ;

(*b*) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures, on the part of the owner of such estate or portion thereof, or the employer in charge of such estate or portion, causing or contributing to such mortality ;

(*c*) the fitness or otherwise of such estate or portion for the residence of labourers :

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government or Magistrate of the District may direct an inquiry under this section limited to such particular class of labourers.*

Medical Officer to report.

131. Such Medical Officer shall, as soon as may be, inquire into such matters, and shall hear and record such information relating thereto as the owner of such estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect such estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded, and the notes of his inspection of such estate or portion.

Local Government may declare estate unfit for residence.

Effect of declaration.

132. If the Local Government, after perusal and consideration of the said report, information, and notes, is of opinion that such mortality was caused by the want, on the part of the owner of such estate or portion, or the employer in charge of the same, of due care or precaution, or of the adoption of proper and available sanitary measures, " or that such estate or portion is"† unfit for the residence of labourers, " or of any particular class of labourers, it may make a declaration in writing to that effect."‡ Such declaration of the Local Government shall have the same effect as the finding of a Committee under section 129.

Power to certify fitness of estate or portion found or declared to be unfit.

133.§ If it at any time appears to the Inspector that any estate or smaller area, which has been found or declared under any of the preceding provisions to be unfit for the residence of labourers or of any particular

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*This proviso has been added by the Inland Emigration Act (VII. of 1893), sec. 20.

† The words quoted have been substituted for the words, " and that such estate or portion is thereby rendered," by the said Act (VII. of 1893), sec. 21.

‡ The words quoted have been substituted for the words, "it may declare in writing that such estate or portion is unfit for the residence of labourers," by the said Act. VII. of 1893, sec. 21.

§ Sec. 133 has been substituted for the original by the said Act (VII. of 1893), sec. 22.

class of labourers, has become fit for the residence of such labourers or class of labourers, as the case may be, he shall with the previous sanction of the Magistrate of the District in which such estate or area is situate, give a certificate to that effect signed by him. Thereupon all such labourers as are mentioned or referred to in the last paragraph of section 129, and whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates, for the unexpired periods (if any) of their respective contracts.

II.—Complaints made by Labourers.

If labourer wishes to complain of personal ill-usage or breach of Act, employer to send him to Inspector or Magistrate.

134. If any labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to any Magistrate of personal ill-usage, or breach, on the part of his employer or such person, of any provisions of this Act, or of any rule of the Local Government made hereunder, the person to whom such statement is made shall forthwith send such labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Provided that, if more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending such labourers to such Inspector or Magistrate, give him notice in writing of their complaint.

Inspector or Magistrate how to proceed if complaint is made to him, or if he has reason to believe that there is ground for a complaint.

135. Whenever any such complaint is made to an Inspector or Magistrate, or whenever any Inspector or Magistrate receives notice in writing of any such complaint, or has other reasonable grounds for believing that any employer or person acting on his behalf has personally ill-used, or committed any breach mentioned in section 134 in respect of, any labourer, such Inspector or Magistrate shall, as soon as may be, proceed to some place not more than ten miles from the principal place of business of such employer situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that such ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction such ill-usage or breach has been committed.

Power to summon witness.

For the purposes of an inquiry under this section, the Inspector or Magistrate may summon and examine any person as a witness.

If complaint is untrue or frivolous.

136. If, upon such inquiry made on the complaint of a labourer, the Inspector or Magistrate

is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint, and in such case shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

Every such endorsement shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of compensation to employer.

137. When any complaint is dismissed under section 136, the Inspector or Magistrate may award to the employer any reasonable compensation on account of any expence incurred by him in connection with such complaint, and shall endorse the amount of such compensation on the complainant's copy of the labour-contract. The complainant shall be bound to pay the amount so awarded; and in default of such payment his labour-contract shall not be deemed to have determined until he has worked off such amount at the rate of one day's labour for each four annas of such amount.

If on inquiry there is sufficient ground for proceeding.

138. If, upon such inquiry by a Magistrate or by an Inspector who is a Magistrate, such Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law. If the Inspector is not a Magistrate, and is of such opinion, he shall, without delay, send the complainant and his witnesses (if any) to the nearest Magistrate; and such Magistrate shall thereupon dispose of the case according to law.

Recovery of arrears of wages.

139. If, upon the complaint of any labourer, it is proved to the satisfaction of a Magistrate that the wages of such labourer are in arrear for two months, or if the wages of any person whose labour-contract has determined are proved to the satisfaction of a Magistrate to have been withheld for any period after such determination, the Magistrate may award to such labourer or person the amount which appears to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as to such Magistrate seems just; and, in case of default in payment of the amount so awarded, the Magistrate shall levy such amount by distress and sale of any moveable property belonging to the employer of such labourer or person.

Compensation may be given.

Power to cancel contract on conviction of employer,

140. Whenever it is proved to the satisfaction of a Magistrate—

(*a*) that any employer, or any person placed by him in authority over any labourer, has been convicted of any offence causing injury to the person, or loss or damage to the property of such labourer, and, under the Code of Criminal Procedure,* triable exclusively by the Court of Session, or

* See Act X. of 1882, sec. 3.

(*b*) that any employer, or other person as aforesaid, has been twice convicted of any such offence against such labourer, and under the said Code triable by a Magistrate, or

(*c*) that the wages of any labourer are in arrear to an amount exceeding the whole of such labourer's wages for four months, or

or if wages are in arrear for more than four months.

(*d*) that any labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person,

or if ill-usage is proved.

such Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of such labourer, and award to him compensation not exceeding thirty rupees.

Every such cancelment shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if the same be not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

140A.* When the labour-contract of any labourer is or has been cancelled or determined under section 111A, 111B, 122, or 140, the Inspector or Magistrate, as the case may be, may, at his discretion, and on the application of the labourers concerned, cancel the labour-contract of any labourer employed on any estate belonging to the same employer being a wife, husband, father, mother, son, or daughter of the labourer whose labour-contract is or has been so cancelled or determined.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

I.—Determination of Labour contract.

141. Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of such determination, or, if such copy be not forthcoming, shall give to the labourer a certificate of such determination; and, if the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement, or give such certificate.

Endorsement of determination on labour-contract.

The employer shall give to the Inspector notice in writing of such determination within one month from the date thereof.

142. If any labourer is able and desirous to redeem the unexpired term of his labour-contract, or of the labour-contract of any member of his family, by payment of a sum equivalent to the value of such unexpired term, such labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he may be employed; and, on his depositing such sum with such Inspector, the Inspector shall give notice to the employer that the labourer requires him, within one week, to show cause why the labourer, the unexpired term of whose contract is proposed to be redeemed, should not be released from his contract.

Power to redeem labour-contract.

* Sec. 140A has been inserted by the Inland Emigration Act (VII. of 1893), sec. 23.

If no sufficient cause is shown, the Inspector shall require such labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from such contract, or, if such copy be not forthcoming, shall deliver to the labourer a certificate under his hand to that effect; and shall in either case hold the sum so deposited to the credit of the employer of such labourer.

Value of unexpired term of labour-contract.

The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the "third and fourth years" * of the original term of the contract.

Power to equalize terms of contract in case of husband and wife.

142A † In any case in which the contract of a labourer determines at a different time from that of any other labourer who is the wife or husband of such labourer, the Inspector or Magistrate may, on the joint application of such labourers, equalize the terms of their respective contracts, and may for this purpose add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

Every such addition or deduction from the term of any contract shall be certified by such Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if the same be not forthcoming, by writing under the Inspector or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

J.—Repatriation of Labourers and others.

Repatriation of labourers whose contract is determined under section 122.

142B † If any labourer, not being a native of the labour districts, whose contract is determined under section 122, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receiveable by such labourer from his employer as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer to such district. Such amount shall be deposited by the employer in the Inspector's office, and shall be expended by the Inspector in sending the labourer back to his native district.

On failure of the employer to deposit such amount within twenty-four hours in accordance with any such order, the Inspector may pay the same, and any amount so paid shall be recoverable from the employer as if it were an arrear of wages.

* The words quoted have been substituted for the words "third, fourth, and fifth years" by the Inland Emigration Act (VII. of 1893), sec. 24.

† Secs. 142A, 142B, 142C, 142D, 142E, and 142F, have been inserted by the said Act (VII. of 1893), sec. 25.

142C.* If any person, being a native of India, but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependent of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back together with his dependents (if any) to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Inland Labour Transport Fund.

Repatriation of immigrants not under contract who are physically incapacitated.

142D * Subject to any orders which the Local Government may issue in this behalf, the Inspector or Magistrate may send back to his native district any labourer, together with his dependents (if any), whose contract has been cancelled under section 111A or 111B on the ground of coercion, undue influence, fraud, or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract, and may recover, as if it were an arrear of wages, from the employer on whose estate such labourer was under contract to labour, the whole or any part of the expenses incurred in so sending him back.

Repatriation of labourers wrongfully recruited.

142E.* If it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud, or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf such person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one accompanying such person, or conveying him to any labour-district or estate, to appear before the Inspector or Magistrate, and show cause why such person should not be sent back to his native district.

Repatriation of persons not under contract wrongfully recruited.

If the Inspector or Magistrate is of opinion, after such enquiry as he thinks sufficient, that such person was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to this effect, and shall send such person, if he so desires, together with any other persons dependent on him (if any), back to his native district.

Subject to any orders which the Local Government may issue in this behalf, the whole or any part of the amount expended in sending a person back to his native district under this section may be recovered as if it were an arrear of wages from the employer on whose behalf such person was induced

* Secs. 142A, 142B, 142C, 142D, 142E, and 142F, have been inserted by the said Act (VII. of 1893), sec. 25.

to emigrate or to whose estate he was being or had been conveyed; or if the employer is not known, or if there is no such employer, by distress and sale of any moveable property belonging to the person accompanying such person or conveying him to any labour-district or estate.

Arrangements may be made for escorting persons ordered to be repatriated.

142F.* In any case in which a labourer or other person is sent back to his native district under the provisions of section 142D or section 142E, the Inspector or Magistrate may provide an escort or make such other arrangements as may appear to him to be necessary for ensuring that such labourer or person is actually conveyed to such district. Any expenditure incurred in providing such escort or making such arrangements may be recovered as part of the amount expended in sending such labourer or other person back to his native district.

CHAPTER VII.

SUPPLEMENTRAY POWERS.

Power of the Local Government to make rules.

143. "In addition to any other power to make rules conferred by this Act," † the Local Government may make rules consistent with this Act—

(*a*) to define and regulate the powers and duties of the several officers appointed by it under this Act;

(*b*) to prescribe what returns and reports shall be made under this Act by any such officers or by any contractors or local agents within the territories under its administration, and the form in which they shall be respectively so made;

(*c*) to prescribe the forms of all registers, licenses, certificates, and notices required under this Act with respect to the territories under its administration;

(*d*) to prescribe the particulars to be registered by a Registering Officer in respect of each person who is brought before him in any district under its administration for registration as a labourer or dependent;

(*e*) to prescribe the fees to be paid for any license granted under this Act by any officer appointed by it, and for the registration of labourers or dependents in any district under its administration;

(*f*) to prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; to provide for the ventilation, cleanliness, and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and to prescribe the lists, returns, and reports to be kept and submitted by the masters of such vessels;

* Secs. 142A, 142B, 142C, 142D, 142E, and 142F, have been inserted by the Inland Emigration Act (VII. of 1893), sec. 25.

† The words quoted have been prefixed by the said Act VII. of 1893, sec. 26.

(*g*) to prescribe the description, quantity, and quality of provisions, medical drugs, and other stores to be taken on board such vessels carrying labourers when such vessels are within the territories under its administration, and the daily allowance to be issued to each labourer and dependent during the journey through such territories; to prescribe the number of officers, cooks, and other servants to be carried on board such vessels, and to provide generally for the accommodation of labourers and their dependents on such vessels;

(*h*) to provide for the accommodation, food, clothing, and medical treatment of all labourers and dependents detained on account of sickness by order of a Magistrate at any place within any district under its administration;

(*i*) to declare the routes through the territories under its administration by which labourers and their dependents shall not travel to the labour-districts;

(*j*) to prescribe the house-accommodation, water-supply, sanitary arrangements, and amount and kind of food-grains to be provided by employers for their labourers, and to regulate the rations to be supplied to labourers under this Act in the labour-districts under its administration;

(*k*) to provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and to prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers;

(*l*) to provide for the management and regulation of contractors' depots and of hospital-depots situate within the territories under its administration, and for the support and medical treatment of labourers and their dependents passing through such depots;

(*m*) to prescribe the clothing to be supplied to labourers and their dependents while proceeding to the labour-districts through the territories under its administration; and, generally,

(*n*) to give effect to the provisions of this Act within the districts subject to its administration.

Special power of the Lieutenant-Governor of Bengal and Chief Commissioner of Assam.

144. The Lieutenant-Governor of Bengal and the Chief Commissioner of Assam may further respectively make rules consistent with this Act to provide for the detention and inspection of vessels in respect of which licenses are granted hereunder, and passengers, being natives of India, carried thereon while in transit through the territories respectively administered by them.

Power to prescribe penalties.

145. The Local Government may, subject to the control of the Governor-General in Council, by rule prescribe as penalty for the infringement of any rule made by it

hereunder, or of any provision of this Act for a breach of which a penalty is not expressly provided, a fine which may extend to five hundred rupees.

Publication of rules.

All rules made under this Act by the Local Government shall be published in the local official Gazette, and shall thereupon have the force of law.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Inducing native to emigrate in contravention of a notification under section 5.

146. Whoever knowingly induces or assists, or attempts to induce or assist, any native of India to emigrate in contravention of a notification published under section 5, shall be punished with fine which may extend to fifty rupees for every such native whom he so induces or assists, or attempts to induce or assist.

Recruiter removing, &c., unregistered persons.

147. Whoever, being a recruiter,

removes, or attempts to remove, any person to a depot before he has been registered under section 32, or induces or attempts to induce him to go to a depot or to leave the local limits of the jurisdiction of the Registering Officer before whom such person ought to be brought under section 31, or aids or attempts to aid such person in going to a depot, or in leaving any such local limits, before he has been so registered,

or induces or attempts to induce any person who has been so registered to proceed to any place other than the depot which has been established by the contractor on whose behalf such recruiter is licensed, or conveys or attempts to convey him to such place,

shall be punished, in respect of every such person, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Recruiter not supplying proper food, &c.

148 Whoever, being a recruiter or a person deputed by him to accompany labourers to a depot, fails to provide any labourer or any dependent whom he accompanies on the journey to the depot with proper and sufficient food and lodging, or otherwise ill-treats such labourer or dependent on such journey, shall be punished with fine which may extend to fifty rupees; and, in default of payment of such fine within twenty-four hours, with imprisonment for a term which may extend to one month.

The convicting Magistrate may award the whole or any portion of any fine levied under this section as compensation to the labourer in respect of whom, or of whose dependent, such failure or ill-treatment has occurred.

Labourer refusing without reasonable cause to execute contract at depot.

149. Any labourer engaged by a recruiter, and who, having been registered under section 32, without reasonable cause refuses or neglects, when at the depot, to execute, within thirty days after his arrival at such depot, a labour-contract in conformity with the terms made known to

him when he was registered, shall be punished with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depot, and maintaining him therein; and, in default of payment of such fine, with imprisonment for a term which may extend to one month.

Any labourer so punished may be forthwith discharged from the depot.

Every fine levied under this section shall be paid to the contractor, sub-contractor, or recruiter by whom such expense was incurred.

Labourer refusing to execute contract with garden-sardar.

150. Any labourer registered under section 66 who, without reasonable cause, refuses or neglects to execute, within fifteen days from the day on which he was so registered, a labour-contract in conformity with the terms made known to him when he was registered, shall be punished with fine which may extend to twenty rupees, or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

Every fine levied under this section shall be paid to the garden-sardar by whom such expense was incurred.

Garden-sardar failing to report himself, &c.

151.* Whoever, being a garden-sardar,

fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

fails without sufficient cause to return to his employer within the time specified in his certificate, or

fails to account for the money advanced to him by his employer for the purpose of engaging labourers, and

whoever, being a garden-sardar or a person appointed under section 50 or section 73 to accompany labourers to a labour-district, wilfully abandons any labourer or his dependent on the way to such district, or

removes or attempts to remove any person to a labour-district before he has been registered as provided by section 66, or

induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of such sardar before he has been so registered, or aids or attempts to aid him in proceeding to a labour district or in leaving any such local area before he has been so registered,

shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making over labourers to contractors, or committing like offences.

152.† Any garden-sardar who makes over to any contractor, sub-contractor, or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other

* Sec. 151 has been substituted for the original by the Inland Emigration Act (VII. of 1893), sec. 27.

† Sec. 152 has been substituted for the original by the said Act VII of 1893, s. 23.

person, any persons whom he has engaged or intends to engage as labourers, or

places any such person in a contractor's depot or in the place of accommodation provided by a recruiter in accordance with the provisions of section 27, or

allows any persons engaged as labourers by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 57,

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; and his certificate may be impounded by the convicting Magistrate.

Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

Garden-sardar failing to comply with instructions endorsed on way-bill.

153. Any garden-sardar or person appointed by him as provided by section 73, who accompanies labourers to the labour-districts, and fails to present a way-bill as required by section 76, or to carry out any of the instructions entered in such way-bill, shall be punished with fine which may extend to twenty rupees.

Master receiving native passengers on board in contravention of Act.

154. Any master not licensed under section 89, who, in contravention of section 87, knowingly receives on board his vessel more than twenty passengers, being natives of India, and

any master licensed as aforesaid who knowingly receives on board his vessel any such passengers in excess of the number specified in his license, or in any order of an Embarkation Agent under section 91, for the purpose of transporting them to a labour-district,

shall be punished with fine which may extend to two hundred rupees for each passenger so received.

Nothing in this section applies to the master of a vessel exempted under section 87.

Fraudulent alteration of vessel after grant of license.

155. Any master licensed under section 89, who, with intent to defraud, does, or suffers to be done, any act or thing whereby the state of his vessel is altered, so that such vessel is unfit for the accommodation of the number of passengers specified in his license, or in any order made under section 91 by an Embarkation Agent, shall be punished with fine which may extend to two hundred rupees.

Master not complying with section 94.

156. Any master licensed as aforesaid, who proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 94, shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months.

157. Any master licensed as aforesaid, who fails to comply with an order of an Embarkation Agent made under section 96, shall be punished with fine which may extend to two hundred rupees for each day during which he fails to comply with such order after the day on which the order was received by him.

Master not complying with order under sec. 96.

158. Any master licensed as aforesaid, causing or permitting a labourer finally to leave his vessel contrary to the provisions of section 98, shall be punished with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master permitting labourer to leave vessel contrary to section 98.

159. Any master licensed as aforesaid, who wilfully omits to comply with the provisions of section 99, shall be punished with fine which may extend to two hundred rupees.

Master wilfully omitting to stop vessel at certain places.

160. Any person who disobeys any order made under section 101 by a Magistrate shall be punished with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

161. Any master licensed as aforesaid, or any Medical Officer in charge of his vessel, who wilfully omits or neglects to obey or enforce on board of such vessel any provision of this Act or any rule made hereunder, shall be punished with fine which may extend to two hundred rupees.

Master or Medical Officer disobeying or neglecting to enforce rules.

162. Any labourer, who, having been registered under section 32 or section 66, deserts while on his journey from the district in which he has been so registered to a labourer-district, or

Labourer deserting, &c., after registration.

without reasonable cause refuses or neglects to proceed from the district in which he has been so registered, or to embark in any vessel when called upon to do so by an Embarkation Agent,

shall be punished with imprisonment for a term which may extend to three months.

163. Any employer who refuses or wilfully omits to keep such registers, or to make such periodical returns in writing to the Inspector, as may be prescribed by any rule made hereunder, or who knowingly keeps an incorrect register or makes an incorrect return, or who wilfully omits to prepare, file, or stick up a schedule as required by section 115, shall be punished with fine which may extend to two hundred rupees.

Employer refusing or omitting to keep registers, &c.

164. Any employer, or any person acting under his orders or on his behalf, who wilfully obstructs any entry, inspection, or inquiry, " or omits to comply with any requisition,"* made under section 114, shall,

Employer or other person obstructing inspection under section 114.

* The words quoted have been inserted by the Inland Emigration Act (VII. of 1893), sec. 29.

for every such offence, be punished with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit.

165. Any employer, or any person acting under his orders or on his behalf, who compels any labourer to perform any labour, knowing that he is at the time unfit to perform such labour, shall be punished with fine which may extend to two hundred rupees.

Persons buying labourer's rations.

166. Any person who buys the rations which have been furnished under section 125 to any labourer, and any labourer who sells any such rations, shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Employer omitting to provide house accommodation, &c.

167. Any employer who wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains, or rations in accordance with the provisions of this Act, or any rule made hereunder, shall be punished with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

If the employer wilfully omits to comply with such order within the time so fixed, he shall be punished with fine which may extend to one hundred rupees for each day during which such omission continues.

If the employer fails to pay the last-mentioned fine, the person on whose account he has been acting shall be liable to pay such fine.

Employer neglecting to provide hospital accommodation.

168. Any employer who fails to provide such hospital-accommodation for, or make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punished with fine which may extend to two hundred rupees for each week during which such default continues.

Employer causing labourer to reside on estate declared unfit.

169. Where any estate or portion thereof has been found under section 129, or declared under section 132, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a certificate has been given under section 133, causes or permits such labourers or class of labourers to reside or labour upon such estate or portion, shall be punished with fine which may extend to two hundred rupees.

Unlawful absence from work.

170. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of such absence. When any employer sends any such statement in writing, he shall at the same time notify to each labourer concerned the fact that he has done so.

Any Inspector who receives any such statement shall, "if the employer so desires," * when next visiting the estate on which the labourers to whom such statement relates are employed, inquire into each such case of absence, in the presence of the labourer concerned, and, if satisfied that the labourer has, voluntarily and without reasonable cause, absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each such day of absence, endorse such days of absence on the labour-contract of such labourer, and add them to the term of such contract.

The Inspector may also at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse such days of absence on, and add them to the term of, the labour-contract: Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.†

Labourer absent without cause.

171. Any labourer, who, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be liable to forfeit his wages for the period of such absence, and to pay to his employer a sum not exceeding four annas for each such day of absence, and shall also be liable to imprisonment for a term which may extend to fourteen days; and, in case such absence has extended to twenty days in any two consecutive months, to imprisonment for a term which may extend to one month.

Explanation.—Ill-treatment of such labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, is reasonable cause within the meaning or section 170 or this section.

Statement of deserters.

171A.‡ Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing, in such form as the Local Government may prescribe, containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month.

erter may be appre- d without warrant.

172. If any labourer deserts from his employer's service, such employer, or any person acting on his behalf, may, without a warrant, and without the assistance of police-officer, arrest such labourer wherever he may be found:

* The words quoted have been inserted by the Inland Emigration Act (VII. of 1893), s. 30.

† This paragraph has been added by the Inland Emigration Act (VII. of 1893), s. 30.

‡ Sec. 171A has been inserted by the Inland Emigration Act (VII. of 1893), s. 31.

Provided that, if such labourer be found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

Every police-officer shall assist in arresting any such labourer if so required by the employer or person acting on his behalf.

Whoever arrests a labourer under this section shall, without delay, take him to the police-station nearest to the place of the arrest; and, if he fails to do so, shall be punished with fine which may extend to two hundred rupees.

Procedure at police-station.

173.* The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested, and of the person arresting the labourer.

If the labourer admits the contract, and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

If the labourer does not admit the contract, or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send such labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in the last two preceding paragraphs, such Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such Magistrate.

On receipt of such statements and report, the Magistrate within the local limits of whose jurisdiction such estate lies may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry such Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to, or appeared before him, require the labourer to appear before him.

Procedure on complaint of desertion.

174. Whenever an employer or a person acting on his behalf complains to a Magistrate that a labourer has deserted from his employer's service, such Magistrate may, without previously examining the complainant, issue a summons for the attendance of such labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

* S. 173 has been substituted for the original by the said Act (VII. of 1893), sec. 32.

Punishment for desertion.

175. Every labourer who deserts from his employer's service shall be punished with imprisonment for a term which may extend to one month, "or with fine which may extend to twenty rupees, or with both." For a second conviction for a like offence he shall be punished with imprisonment for a term which may extend to two months, "or with fine which may extend to fifty rupees, or with both." For a third and every subsequent conviction for a like offence 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."*

Compensation for wrongful arrest.

176. If it appears to the Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, such Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom, or at whose instance, such labourer was arrested. The Magistrate may in his sentence direct that the whole or any part of such fine be paid by way of compensation to the labourer so arrested.

Cancellation of contract by desertion.

177. Whenever any labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of such labourer, and shall endorse on his copy of the contract a certificate of such cancellation, or, if such copy be not forthcoming, he shall give to the labourer a written certificate of such cancellation.

Penalty for drunkenness or neglect of sanitary regulations.

178. Any labourer guilty of habitual drunkenness, or wilfully disregarding any sanitary regulation approved by the Inspector, and duly notified for the guidance of the labourers on the estate on which such labourer is employed, shall be punished with fine which may extend to five rupees, or with imprisonment for a term which may extend to one week.

Portion of sentence may be cancelled on application of employer.

179. The employer of any labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for such employer, may apply to the Magistrate, at any time previous to the expiry of such sentence, that such labourer be made over to him for the purpose of completing his labour contract. On such application being made, the Magistrate may, if he thinks fit, order that such labourer be made over or forwarded to his employer;

and in that case such Magistrate shall cancel the remainder of the sentence passed on the labourer, and shall endorse on his copy of the labour-contract a certificate of such cancellation, or, if such copy be not forthcoming, shall give him a written certificate of such cancellation.

Nothing in this section shall be deemed to affect the provisions of section 177.

* In sec. 175 the words quoted have been inserted by the Inland Emigration Act (VII. of 1893), sec. 33.

Expense of forwarding labourer to be paid by employer.

180. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in such making over or forwarding, and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray such expense.

Conviction not to operate as a release.

181. On the expiry of any sentence of imprisonment for any offence under this Act, the Magistrate shall, subject to the provisions of section 177, make over such labourer to any person appointed on the part of his employer to take charge of him; and no conviction under this Act, or imprisonment under such conviction, shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

If no person is present on the part of the employer to take charge of the labourer at the expiry of his sentence, the Magistrate shall forward such labourer to the principal place of business of his employer situate within the local limits of such Magistrate's jurisdiction, and the expense of such forwarding shall be recoverable from such employer as if it were an arrear of land-revenue.

Endorsement on contract of period of unlawful absence or imprisonment for offence against Act.

182.* When any labourer is convicted under section 171 of absence from labour, or is sentenced to imprisonment for an offence under this Act, the Magistrate so convicting or sentencing him shall endorse on the employer's copy of the labour-contract the period during which such labourer is convicted under the section aforesaid of being absent from his labour, or the term for which he is sentenced to imprisonment, or both, as the case may be.

Endorsement on contract of period of desertion or imprisonment for desertion.

182A.* When any labourer is convicted under section 175 of desertion from his employer's service, the Magistrate convicting him shall, on the application of the employer or his agent, endorse on the employer's copy of the labour-contract (in addition to the term of imprisonment to which the labourer may be sentenced for such desertion), the period during which the Magistrate finds that the labourer was absent from his labour in contravention of his contract owing to such desertion:

Provided that no such endorsement shall be made in any case in which the labour-contract has been cancelled under the provisions of section 177, or in any case in which the original term of the labour-contract has expired on the date of the conviction, and more than three years have elapsed from the date of the labourer's desertion to that of his arrest:

Provided also that the employer has duly reported the particulars of the desertion in the monthly statement provided for in section 171A.

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* Secs. 182, 182A, 182B, and 182C, have been substituted by the Inland Emigration Act (VII. of 1893), sec. 34, for sec. 182 as originally enacted.

182B.* When any labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or his agent shall so request, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if such period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of such period as is equal to such unexpired term.

Endorsement on contract of period of any other imprisonment.

182C.* The periods endorsed under the three last preceding sections shall be added to the term for which the labourer contracted to serve; and such labourer shall not be deemed to have performed his labour-contract till he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

183. Whoever, knowing that any labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice such labourer to leave such employer, or harbours or employs any such labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Other person enticing away, harbouring, or employing labourer under labour-contract.

The convicting Magistrate may, in his discretion, award to the employer with whom such labourer has contracted the whole or any part of any fine levied under this section.

183A.† Whoever, being bound under section 111 to forward any labour-contract to the Inspector, or under section 111B to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward such labour-contract to the Inspector at or within the time specified, or to cause such labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punished with fine which may extend to two hundred rupees.

Failure to forward contract under section 111 or to cause labourer to appear under section 111B.

184. Whoever, being bound by section 134 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send such labourer, or to give such notice, shall be punished with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 134.

185. Any employer, who—

refuses or wilfully neglects to endorse the labourer's copy of his contract as required by section 141, or

Employer refusing to endorse labour contracts, &c., as required by section 141.

* Secs. 182, 182A, 182B, and 182C, have been substituted by the Inland Emigration (VII. of 1893), sec 34, for sec. 182 as originally enacted.

† Sec. 183A has been inserted by the said Act VII. of 1893, sec. 35.

detains a labourer after the determination of his labour-contract, or

fails to give to the Inspector notice in writing of such determination within one month of the date thereof,

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

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

186. Any employer or person acting for an employer who refuses or neglects to comply with the request of a labourer made under section 142 shall be punished with fine which may extend to two hundred rupees.

Abetment.

187. Whoever abets, within the meaning of the Indian Penal Code, any offence against this Act or any rule made hereunder, shall be punished with the punishment provided for such offence.

Place of trial for offences.

188. Whoever commits any offence against this Act or any rule made hereunder shall be triable for such offence in any place in which he may be found as well as in any other place in which he might be tried under any law for the time being in force.

Saving of prosecutions under other laws.

189. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made hereunder, or from being liable under any other law to any penalty higher than that provided by this Act for such offence:

Provided that no person shall be punished twice for the same offence.

CHAPTER IX.

MISCELLANEOUS.

Wages due under labour-contract a charge upon estate.

190. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom such labour-contract relates has been engaged to labour, or, if he has engaged to labour upon any of several estates managed by the same employer, shall be a charge upon that one of such estates upon which such labourer for the time being actually labours.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

191. Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law, or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of such labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound by such contract, and shall have the same rights and remedies under such contract as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Determination of ownership determines liability.

No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of such labourer which occurs after he has ceased to be such owner.

Fines, fees, and rates to be credited to "Inland Labour Transport Fund."

192. Subject to the power of a Magistrate under this Act or the Code of Criminal Procedure to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees, and rates levied and paid under this Act in the territories under its administration to a fund which shall be called the "Inland Labour Transport Fund;" and such fund shall be at the disposal of such Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances, of all officers and establishments appointed under this Act by such Local Government and their pensionary and leave-allowances, "for meeting the cost of sending labourers and other persons back to their native districts,"[1] and generally for defraying the expenses of carrying out the purposes of this Act and the rules of the Local Government made hereunder. The annual surplus accruing in such fund shall be applied to reducing the annual rate of the registration-fees leviable under this Act, and not otherwise.

193. [*Repealed by Act XII. of* 1891.]

Duty of Assistant Inspector.

194. An Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Powers of Local Government and officers exercisable from time to time.

195. All powers conferred by this Act on the Local Government, or on any Superintendent, Medical Inspector, Emigration Agent, or other officer, may be exercised from time to time as occasion requires.

THE SCHEDULE.

(*See section 9.*)

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

This contract, made under the Inland Emigration Act, 1882, between A B (hereinafter called *the labourer*) of the one part, and* [C D (*agent or local agent or garden-sardar*) on behalf of] E F (hereinafter called *the employer*) on the other part, witnesseth that the said* [*agent or local agent or garden-sardar* on behalf of the said] employer doth hereby promise the said labourer that, if he, the said labourer, do remain and labour† on the $\frac{\text{X estate}}{\text{Y estates}}$‡ of his said employer in the labour- district of for the term of years from the date of the exe-

* Parts in brackets to be omitted if the contract is made without the intervention of an agent, local agent, or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.[2]

‡ As the case may be.

[1] In sec. 193 the words quoted have been inserted by the Inland Emigration Act (VII. of 1893), sec. 36.

[2] This marginal note has been inserted by Act VII. of 1893, sec. 37 (1).

cution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on such estate/estates, pay or cause to be paid to the said labourer monthly wages at the rate of Rs.‡ for a completed daily task regulated in accordance with the provisions of the said Act, and, when such task is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during such period he, the said employer, will supply to the said labourer rice at a price of Rs. per maund, and will faithfully comply with all rules regarding house-accommodation, medical treatment, and the supply of food-grains or rations to the said labourer, which the Local Government may from time to time prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 18 .*

‡ State rates for various periods of contract.

(*Signature of labourer and of employer or of his agent, local agent, or garden sardar.*)

*Form of Description of Labourer.**

NAME.	Father's Name.	Age.	Sex.	Caste.	RESIDENCE.			Descriptive marks.
					District.	Thana.	Village.	

" [*Endorsement to be filled up by Registering Officer before whom the contract is executed.*]

I hereby certify that, before the said *A B* signed this contract, I personally explained it to him.

Dated at
This day of

Signed———
Registering Officer or Inspector or Magistrate.

[*Endorsements on labourer's copy of contract, to be filled up when the contract is determined or cancelled.*]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at
This day of

Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section of Act

Dated at
This day of

Signature of Inspector or Magistrate."

* The portion which follows this tabular statement, beginning with the word " Endorsement" to the end, has been substituted for the original by the Inland Emigration Act (VII. of 1893), sec. 37 (2).

INDIAN EMIGRATION.

ACT NO. XXI. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH DECEMBER 1883.

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called "The Indian Emigration Act, 1883."

(2) It extends to the whole of British India.

Exemption of Government vessels.

2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.

Commencement.

3. Except as to the power to make rules, this Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

Repeal of enactments.

4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV. of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*), shall be repealed.

Saving for proceedings under repealed enactments.

5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made, and granted under this Act.

Definitions.

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

(1) "Emigrate" and "Emigration" denote the departure by sea out of British India of a native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements :

Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition :

(2) "Emigrant" means any native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act* as an emigrant, and includes any dependent of an emigrant :

(3) "Dependent" means any of the following persons accompanying any emigrant, namely :

(*a*) any woman who has not entered into an agreement to emigrate under this Act ;*

(*b*) any child in whose name and on whose behalf any such agreement has not been entered into; and

(*c*) any aged or incapacitated relative or friend :

(4) " Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform, in any local area, the functions of a Magistrate under this Act :

(5) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform, in any local area, the functions of a Registering Officer under this Act :

(6) " Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons :

(7) " Vessel" includes anything made for the conveyance by water of human beings or property :

(8) " Emigrant-vessel" means a vessel the master of which is licensed under this Act† to carry emigrants therein : and

(9) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

Ports from which emigration is lawful.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras, and Bombay, and from such other ports as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

(2) The Governor-General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The Local Government may, from time to time, by notification in the official Gazette, fix, for the purposes of this Act, the limits of any port from which emigration is lawful.

* See Ch. VI., *infra*. † See Ch. IX., *infra*.

Countries to which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor-General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor-General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

Power for Governor-General in Council to prohibit emigration to any country.

9. (1) Whenever the Governor-General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, be notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification ; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) of this section are—

(*a*) that the plague or any other epidemic disease dangerous to human life has broken out in the country ;

(*b*) that the mortality among emigrants in the country is excessive ;

(*c*) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein ;

(*d*) that the agreements made with emigrants, as such, before their departure from India, are not duly enforced by the Government of the country ; and

(*e*) that the Governor-General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not, within a reasonable time, received the information asked for.

Power for Local Government to suspend emigration pending reference to Governor-General in Council.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to

that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor-General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor-General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

11. Whenever the Governor-General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by notification in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.

12. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all natives of India, or any specified class of natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

Saving for acts done before publication of notification.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed, or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

Appointment of Emigration Agents.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

Remuneration of Agents.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary :

Provided that the Governor-General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occational work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor-General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

General duties of protector.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(*a*) protect and aid with his advice all emigrants ;

(*b*) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with ;

(*c*) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector ;

(*d*) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return-voyage, and report thereon to the Local Government ; and

(*e*) aid and advise the return-emigrants so far as he reasonably can.

Appointment of Medical Inspector.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

Protector and Medical Inspector to have facilities for inspection.

19. Every Emigration Agent, and all persons in charge of, or employed in, any depot established under this Act,* or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for make

* See Ch. VII., *infra*.

ing such inspections, examinations, and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

Protector of Emigrants to license recruiters.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

(*a*) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induce or attempt to induce any person to leave any place for the purpose of emigrating, or

(*c*) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

Form of license.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

Duration of license.

22. (1) A license granted under this chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

Countersignature of license.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act, or be employed in any other respect, as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depot* at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Power for Magistrate to cancel countersignature in certain cases.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable, or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license, and send it for cancellation to the Protector of Emigrants who granted it.

Notice to Protector of Emigrants of countersignature, refusal to countersign, or cancellation of countersignature.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Recruiter to be supplied with statement of terms of agreement he is authorized to offer.

26. (1) The Emigration Agent, on whose application any recruiter is licensed, shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every

* See Ch. VII., *infra*.

person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

Accommodation to be provided by recruiters.

27. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him, pending their registration or removal to the port of embarkation.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any Subordinate Magistrate or officer of police, authorized in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act* conferred on a Protector of Emigrnts in respect of depots at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of police authorized as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

Power for Local Government to appoint Registering Officers.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Execution of agreements.

29. Every agreement to emigrate entered into by any person must—

(*a*) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector ;

(*b*) if executed elsewhere, be executed in the presence of a Registering Officer.

Appearance of intending emigrants before Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

* See Ch. VII., *infra*.

31. The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation, or mistake, and* that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section 26, he was authorized to offer, shall, subject to the provisions of section 33, register in a book to be kept for the purpose, in such form as the Governor-General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation, and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Examination and registration of emigrant.

32. (1) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

Power to refuse registration in case of married woman.

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (1) When any person appears before a Registering Officer or Protector under section 30 as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany, and as to his willingness to emigrate.

Examination of dependent.

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

Record of reasons for refusal to register.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall

Execution and attestation of agreement.

* The word "and" has been inserted by Act XVIII of 1890.

cause an agreement to be prepared in duplicate,* and shall call on the recruiter and the intending emigrant to execute the agreement in duplicate* in his presence, and, if they execute it, shall attest the execution with his signature.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act, as an emigrant.

(4) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing separate instrument.†

Contents of agreement.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section 31, and on the reverse such particulars concerning the nature, duration, and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Record of registrations and agreements.

37.‡ When the agreement has been executed and attested—

(*a*) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and

(*b*) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent.

Fee for preparation of agreement.

38. For the preparation of every agreement under this chapter, the recruiter or Emi-

* The word "duplicate" has been substituted for the word "triplicate" by Act XVIII. of 1890.

† Sub sec. 4 has been added by Act XVIII. of 1890.

‡ Sec. 37 has been substituted by Act XVIII. of 1890.

gration Agent shall pay such fee as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided that the Governor-General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section 73.

Power to make agreement if over 16.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter, in manner in this Act provided, into an agreement to emigrate to any place to which emigration is lawful.

Power to make agreement on behalf of child or ward.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided, binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPOTS.

Depots to be established at ports of embarkation.

41. Every Emigration Agent shall establish, at the port for which he is appointed, a suitable depot for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depot.

Licensing of depots.

42. (1) A depot established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

(*a*) if he considers that the depot for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(*b*) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depot at the port for which they are Protector and Medical Inspector respectively, inspect the emigrants in that depot, and examine the state of the depot, and the manner in which the emigrants therein are lodged, fed, clothed, and otherwise provided for and attended to.

Inspection by Protector and Medical Inspector.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depot is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

Report by Medical Inspector.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depot.

Treatment of emigrant suffering from disease.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removel of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPOTS AND PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depot, or induce or attempt to induce him to go to a depot, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depot, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Emigrant not to be removed before registration.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch by or under the orders of the recruiter or Emigration Agent to the depot established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

Conveyance of emigrant to depot.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the

depot, be accompanied throughout the journey, either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him, stating that he has been appointed for the journey to the depot.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

Report of arrival at depot.

48. The arrival at a depot of each emigrant must immediately be reported by the person in charge of the depot to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Examination by Medical Inspector.

49. (1) The copy of the "particulars registered under section 31"* received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depot, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant entered in the "said copy"† to ascertain in whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for Protector to order payment of expenses of return of emigrant in certain cases.

50. (1) In any of the following cases, namely—

(*a*) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(*b*) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(*c*) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

* The words quoted have been substituted for the word "agreement" by Act XVIII. of 1890.

† The words quoted have been substituted for the word "copy" by Act XVIII. of 1890.

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed, and attended to at the depot at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

Payment of expenses of dependents and relatives.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, shall be entitled—

(*a*) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered ; and

(*b*) if the emigrant is unable to travel, to be lodged, fed, and clothed in the depot at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

Compensation to emigrant for ill-treatment on journey.

52. If it appears that during the journey to the depot any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 47 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(*a*) to the emigrant a reasonable sum by way of compensation, and

(*b*) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section 47, to the Protector the expenses so incurred.

Power for Protector to pay and recover expenses incurred on behalf of emigrants.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

Master of emigrant-vessel to be licensed.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Application for license.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Survey and licensing of vessel.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel, and furniture requisite for her intended voyage :

Provided that, if the vessel is a steamship having a certificate of survey, granted by the Board of Trade or any British Colonial Government, or under the Indian Steamships Act, 1884, and in force and ap-

plicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage, or has otherwise become inefficient.*

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein, specifying the number of emigrants which may be received on board.

Accommodation required on board emigrant vessel.

57. (1) A license shall not be granted under the last foregoing section unless—

(*a*) there is provided for the emigrants, either between decks or subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet ;

(*b*) a separate place is fitted up for a hospital ; and

(*c*) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (*a*) of this section must be firmly secured and entirely covered in.

Rules as to space on board emigrant-vessel.

58. Every emigrant-vessel must contain within the space referred to in clause (*a*) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant :

Provided that two emigrants under the age of ten years shall, for the purposes of this section, count as one only.

Provisions, clothing, fuel, and water.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel, and water for the emigrants (over and above the supply for the master, officers, and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Surgeons, attendants, medicines, and stores.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her,

* This proviso has been added by Act XVIII. of 1890.

a properly qualified surgeon, and also such compounders, interpreters, and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality, as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

Bond to be executed by master of emigrant-vessel.

62. (1) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government from time to time prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of embarkation after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depot.

Time at which emigrant-vessels may leave India.

64. (1) An emigrant-vessel shall not sail from any port in British India—

(*a*) to any country west of the Cape of Good Hope, except at such seasons as the Governor-General in Council, from time to time, by rules made under this Act, prescribes, as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country ;

(*b*) to any country during any season which the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

Procedure if emigrant refuses to embark.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

List of, and passes for, emigrants.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages, and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall, on embarkation, deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent, and, if the list appears to be correct, and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

Disposal of the two copies of list to be given by master to Protector.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list to be given by master to Emigration Agent.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Examination of emigrants by Medical Inspector.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections 50, 51, and 53 shall apply to emigrants who, under this section, are not permitted to embark, and to any emigrants who, under this section, refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. [*Repealed by Act XVIII. of 1890.*]

Certificates from Protector of Emigrants and Emigration Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent respectively, and that all the directions for the security, well-being, and protection of emigrants which are contained in this Act, or in the rules made under this Act, have, in the case of that vessel, been complied with.

Copies of Act and rules to be kept on board.

72. The master of every emigrant-vessel shall keep on board the vessel, during the whole voyage, two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each embarked emigrant.

73. For each emigrant who embarks on board an emigrant-vessel, the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes :—

Provided as follows :—

(*a*) the fee payable under this section shall not be more than is, in the opinion of the Governor-General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor-General in Council thinks necessary to provide for the control of emigration :

(*b*) if it appears to the Governor-General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor-General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

Duty of master to see to observance of Act and rules on board his vessel.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act, and the rules made under this Act, are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Return of pass to emigrant.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to vessels sailing from Calcutta.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to be towed to sea.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emi-

78. (1) When an emigrant-vessel leaves the Port of Calcutta, if, during her passage down the river, and while between Garden Reach and Diamond Harbour,

grants to be sent to hospital.

the disease of measles, scarlet-fever, or small-pox, appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of any such emigrant, and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of sections 50, 51, and 53 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for Governor-General in Council to make rules.

80. (1) The Governor-General in Council may, from time to time, make rules consistent with this Act—

(*a*) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of police to be authorized to visit and inspect those places;

(*b*) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

(*c*) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed;

(*d*) to prescribe the conditions on which licenses for the establishment of depots under this Act may be given, to provide for the supervision and regulation of the depots, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there ;

(*e*) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act ;

(*f*) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state ;

(*g*) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel ;

(*h*) to prescribe the description, quantity, and quality of provisions, fuel, and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage ;

(*i*) to fix the number of the compounders, interpreters, and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel ;

(*j*) to prescribe the nature, quantity, and quality of medicines and other stores to be carried on board emigrant-vessels ;

(*k*) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets, and other appliances to be used in case of shipwreck or fire ;

(*l*) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope which emigration is for the time being lawful ;

(*m*) to provide for the disposal of emigrants who may be landed under section 79 ;

(*n*) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage ;

(*o*) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and

his treatment of the sick, with full explanation of the causes of every death ; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care ;

(*p*) to define and regulate the powers and duties of the several officers appointed by the Government under this Act ; and

(*q*) generally to provide for the security, well-being, and protection of emigrants :

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (*g*) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

Publication of drafts and rules.

81. (1) The Governor-General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

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

(3) The Governor-General in Council 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.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

Unlawful recruiting.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(*a*) makes, or attempts to make, any agreement with any native of India, purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induces, or attempts to induce, any native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(*c*) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter in any place other than a place in

which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depot at the port of embarkation,

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

(2) if any person, other than a recruiter licensed under this Act, commits an offence under this section, any police-officer may arrest him without warrant.

Recruiters removing unregistered emigrants to depot.

83. Whoever, being a recruiter licensed under this Act,—

(*a*) removes, or attempts to remove, any intending emigrant to a depot before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depot before he has been so registered, or

(*b*) fails to give a true copy of the statement with which he is provided under section 26 to any person whom he invites to emigrate, or

(*c*) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depot,

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

Fraudulently inducing native to emigrate.

84. (1) Whoever, by means of intoxication, coercion, or fraud, causes or induces, or attempts to cause or induce, any native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

85. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government, or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Receiving emigrants on board vessel in contravention of Act.

86. If any master of a vessel—

(*a*) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act so far as they are binding on him, or,

(*b*) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or,

(*c*) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both ; and the vessel, her tackle, apparel, and furniture may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

Fraudulent acts on part of master.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees ;

and he may also be sued on any bond which he may have executed under section 62.

Clearance without compliance with Act.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of sections 57, 59, or 60, have not been complied with in respect of the vessel, he shall be punished with fine which may extend to four thousand rupees.

Failure of master to comply with provisions as to lists and passes.

89. If any master receives on board his vessel any emigrants, and fails to comply with the requirements of sections 66, 67, and 68, in respect to those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

Master taking on board after clearance emigrants not entered in list.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section 66, or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master landing emigrant at other than specified country.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term

which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 78 or 79.

Failure to comply with provisions as to leaving Calcutta.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(*a*) does not leave Garden Reach with his vessel within the time prescribed in section 76, or

(*b*) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 77,

he shall be punished with fine which may extend to one thousand rupees.

Emigrant deserting or refusing to proceed to depot.

93. (1) If any emigrant deserts before arrival at depot, or refuses without reasonable cause to proceed to the depot, he shall be punished with fine which may extend to twenty rupees or to the cost incurred in entering into an agreement with, registering, and conveying him to the depot, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting from depot or failing to embark.

94. (1) If any emigrant—

(*a*) deserts from the depot, or,

(*b*) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering, and conveying him to the depot, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Causing or permitting embarkation of emigrant in contravention of section 63.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section 63, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Institution of prosecutions.

96. Prosecutions under sections 86 to 95 (both inclusive) shall not be instituted except as follows, namely :—

(*a*) prosecutions under sections 86 to 92, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government;

(*b*) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation ;

(*c*) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector ;

(*d*) prosecutions under section 95, by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion.

97. The following shall be good defences to charges under sections 93 and 94, respectively, namely :—

(*a*) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived, or defrauded by the recruiter or any person under his control ;

(*b*) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the depot or on the journey thither.

Power for Customs officers to search and detain for purposes of Act.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to appoint Magistrates for purposes of Act.

99. The Local Government may, from time to time, appoint any person by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

Suits against Emigration Agent for breach of duty.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emi-

grant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under section 50 or section 52 shall be taken into consideration.

Power for Governor-General in Council to determine probable lengths of voyages for purposes of Act.

101. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels, from the ports mentioned in the third schedule hereto annexed, to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

Provision supplementary to section 6 (1) of this Act.

102.* (1) On and from such a date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any British colony or possession for labour in which natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a native of India who departs by sea out of British India under an agreement to labour for hire in any such State, colony, or possession, shall not, so long as the notification continues to apply to the State, colony, or possession, be deemed to emigrate within the meaning of this Act.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, declare that from a date to be specified, a notification under sub-section (1) shall no longer apply to a Native State or British colony or possession therein mentioned.†

Application of Act to emigration from British ports to French and Dutch colonies.

103. The provisions of this Act shall apply to emigration from British Indian ports—

(*a*) to the French colonies, under the terms of the Convention‡ executed at Paris on the first day of July 1861, and ratified at the same place on the 30th day of July 1861, between Her

* Sec. 102 as here printed has been substituted for sec. 102 as originally enacted, and as amended by Act XXI. of 1884.—See Act XVIII. of 1890, sec. 7.

† Every notification made under sec. 102 of the said Act, as amended by Act XXI. of 1884, shall be deemed to have been made under sub-section (1) of sec. 102 of the said Act as amended by the last foregoing section of this Act,—See Act XVIII. of 1890, sec. 8.

‡ A copy of this Convention is printed with Act VII. of 1871 in the volume of General Acts for 1864—1871.

Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and

(*b*) to the Netherlands colony of Dutch Guiana, under the terms of the Convention executed at the Hague on the 8th day of September 1870, and ratified at the same place on the 17th day of February 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that, in any case in which there is any conflict between the provisions, of this Act and those contained in either of those Convention the latter shall prevail.

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such natives were emigrants within the meanings of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

Prohibition of departure by land of a native of India under an agreement to labour for hire in some country beyond the sea.

105. (1) The departure by land out of British India of a native of India under a contract to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land—

(*a*) of a domestic servant when accompanying his employer;

(*b*) of a native of India for the purpose of departing by sea from a French port in India, under an agreement to labour for hire in a French colony in accordance with the Convention referred to in "section 103, clause (*a*), and section 104."*

(2) Whoever induces, or attempts to induce, any native of India to depart by land out of British India in contravention of this section, shall be deemed to have committed an offence under section 82.

* The words, figures, and letter quoted, have been substituted for the word and figures "section 102."—See Act XVIII. of 1890, sec. 9.

SCHEDULE I.

(*See section* 8.)

COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

I.—The British Colonies of Maurities, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis, and Fiji.

II.—The French Colonies of Martinique, Guadelope and its dependencies, dencies, and Guiana.

III.—The Netherlands Colony of Dutch Guiana.

IV.—The Danish Colony of St. Croix.

SCHEDULE II.

(*See section 21.*)

FORM OF RECRUITER'S LICENSE.

OFFICE of the Protector of Emigrants at the Port of .

A B, described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1883, to be a recruiter of emigrants for [*here state the country for which the recruiter is licensed to recruit*] in [*here specify the local area within which the recruiter is licensed to recruit*].

This license will be in force until the of , unless previously cancelled.

(*Signed*) *C. D.*,

Dated the day of *Protector of Emigrants.*

Descriptive Roll.

Name.	Father's Name.	Age.		Caste.	Colour.	Height.		Distinguishing Marks.	Name of village, local sub-division (tahsil, taluq, &c.), and district to which he belongs.
		Years.	Months.			Feet.	Inches.		

SCHEDULE III.

(See section 101.)

PROBABLE LENGTHS OF VOYAGES* UNDER THIS ACT.

FROM CALCUTTA—	
To Mauritius	From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Twenty weeks.
To Natal	Twelve weeks.
To Fiji	Eighteen weeks.
FROM MADRAS—	
To Mauritius	From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.
FROM BOMBAY—	
To Mauritius	From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

* By sailing vessels.

INDIAN FACTORIES ACT.

ACT NO. XV. OF 1881.*

RECEIVED THE G.-G'.S ASSENT ON THE 15TH MARCH 1881.

An Act to regulate labour in Factories.

Preamble.

WHEREAS it is expedient to regulate labour in factories ; It is hereby enacted as follows :—

Preliminary.

Short title and local extent.

1. This Act may be called "The Indian Factories Act, 1881."

It applies to the whole of British India.†

Interpretation-clause.

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

"factory" means any premises (other than indigo-factories or premises situated on, and used solely for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport, or sale, any article or part of an article ; and

"factory :"

(*a*) wherein steam, water, or other mechanical power is used in aid of any such process ; and

(*b*) wherein, subject to the provisions of section 20, not less than fifty persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and‡

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling :

"child:" "child" means a person under the age of fourteen § years :

"mill-gearing :" "mill-gearing" includes every shaft, whether upright, oblique, or horizontal, and every

* Act XV. of 1881, as amended by Act XI. of 1891, came into force from 1st January 1891.—See Act XI. of 1891, sec. 1. A reference in any enactment or document to the Indian Factories Act, 1881, shall be read as a reference to that Act as amended by Act XI. of 1891.—See Act XI. of 1891, sec. 19.

† The words, "and it shall come into force on the first day of July 1881," have been omitted, having been repealed.—See Act XI. of 1891, sec. 2.

‡ Cl. (*b*) has been substituted by Act XI. of 1891, sec. 3.

§ The word "fourteen" has been substituted for the word "twelve."—See Act XI. of 1891, sec. 5.

wheel, drum, pulley, rope, driving strap, or band by which the motion of the first moving power is communicated to any machine :

"employed."

a person* who works in a factory, whether for wages or not,† in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

Inspectors and certifying surgeons.

Inspectors.

3. The Local Government may in its discretion, by notification in the official Gazette, appoint, "by name or by office,"‡ such persons as it thinks fit to be Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.

The District Magistrate shall, in virtue of his office, be an Inspector of all factories, if any, in his district.§

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the Local Government may from time to time indicate in this behalf.

Powers of Inspector.

4. An Inspector of factories may, within the local limits for which he is appointed,—

(*a*) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein ;

(*b*) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the purposes ‖ of this Act ;

(*c*) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act,—

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* The word "person" has been substituted for the word "child."—See Act XI. of 1891, sec. 4 (1).

† The word "either" has been repealed by Act XI. of 1891, sec. 4 (2).

‡ The words quoted have been inserted by Act XI. of 1891, sec. 6 (1).

§ The second paragraph of sec. 3 has been substituted for the original.—See Act XI. of 1891, sec. 6 (2).

‖ The word "purposes" has been substituted for the word "provisions."—See Act XI. of 1891, sec. 7.

until the age of such person has been certified, in the manner hereinafter provided, to be above nine* years, or

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above fourteen† years.

Certifying surgeons.

5. The civil surgeon or such other person practising medicine or surgery as the Local Government may from time to time appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, "and on payment by such person of such fee, if any, as may from time to time be prescribed by the Governor-General in Council by notification in the *Gazette of India*,"‡ examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below nine§ years or fourteen§ years, as the case may be.

All Operatives.¶

Limited stoppage of work daily in certain circumstances.

5A. (1) In every factory, except a factory in which a system of employment in shifts or sets approved by the local Inspector is in force, there shall, between noon and two o'clock in the afternoon, be a stoppage of work for a full half-hour :

(2) Provided that nothing in this section shall apply to any factory of a class to which the Governor-General in Council has, by notification in the *Gazette of India*, declared this section not to apply.

Holidays.

5B. (1) No person shall be employed in any factory on a Sunday :

(2) Provided as follows :—

(*a*) any manager, foreman, mechanic, artisan, or labourer, may be employed in a factory on a Sunday in examining or repairing, or in supervising or aiding in the examination or repair of, any machinery or other thing whatsoever necessary for the carrying on of the work performed in the factory ;

* The word "nine" has been substituted for the word "seven."—See Act XI. 1891, sec. 9.

† The word "fourteen" has been substituted for the word "twelve."—See Act XI. of 1891, sec. 5.

‡ The words quoted have been inserted by Act XI. of 1891, sec. 8.

§ The word "nine" has been substituted for the word "seven".—See Act XI. of 1891, sec. 9.

¶ The portion commencing from the heading "*All Operatives*" to the end of sec. 11 has been substituted by Act XI. of 1891, sec. 10.

(*b*) any person may be employed in a factory on a Sunday if he has had or will have a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday;

(*c*) the Local Government may from time to time, by notification in the official Gazette, declare sub-section (1) of this section not to apply to any factory or class of factories (the factory or class being described in the notification) in which the work performed—

(i) necessitates continuous production for technical reasons, or

(ii) supplies the public with articles of prime necessity which must be made every day, or

(iii) by its nature cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces; and

(*d*) the Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare sub-section (1) of this section not to apply to factories of any class described in the notification.

Women.

Employment of women.

6. (1) No woman shall be employed before five o'clock in the morning, or after eight o'clock in the evening, in any factory in which a system of employment in shifts or sets approved by the local Inspector is not in force.

(2) No woman shall be actually employed in any factory in any one day for more than eleven hours.

(3) Every woman shall be allowed an interval or intervals of rest amounting in the aggregate to at least an hour-and-a half in the day when she is actually employed for eleven hours, and to a proportionately less time when she is actually employed for less than eleven hours.

(4) The Governor-General in Council may from time to time, by notification in the Gazette of India, declare all or any of the foregoing sub-sections of this section not to apply to factories of any class described in the notification or to women employed in any process so described.

Children.

Employment of children.

7. (1) No child shall be employed in any factory if he is under the age of nine years.

(2) No child shall be employed in any factory before five o'clock in the morning or after eight o'clock in the evening.

(3) No child shall be actually employed in any factory for more than seven hours in any one day.

(4) Every child who is actually employed in any factory for six hours in any one day shall be allowed an interval or intervals of rest amounting in the aggregate to at least half-an-hour.

Prohibition of employment of child in certain dangerous work.

8. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel, or other mechanical power, as the case may be.

Register of children in a factory.

9. The Local Government may direct any occupier of a factory to keep, in such form and with such particulars as such Government may from time to time prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

Women and Children.

Provisions supplementary to sections 6 and 7.

10. (1) The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the district in which the factory is situated, showing the times at which such intervals as are required by section 6, sub-section (3), and section 7, sub-section (4), to be allowed to women and children, respectively, shall be allowed, and the length of each interval.

(2) A women or child shall not be deemed to be actually employed within the meaning of section 6 or section 7 during any such interval as aforesaid.

Prohibition of employment of woman or child in two factories on same day.

11. No occupier of a factory shall employ therein on any day any woman or child who has to his knowledge already been employed on the same day in any other factory.

Fencing.

Fencing.

12. (*a*) Every fly-wheel directly connected with a steam-engine,* water-wheel, or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,

(*b*) every hoist or teagle near which any person is liable to pass or be employed, and

(*c*) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

* The word, " or" has been ommitted, having been repealed by Act XI. of 1891, s. 11.

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (*c*) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

Notices.

Notice to be given of accidents.

13. When any accident occurs in a factory causing death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during forty-eight hours next* after the occurrence of the accident, the occupier of such factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of the† accident to such authorities in such form and within such time as the Local Government may from time to time by rule direct.

Person beginning to occupy factory to give notice.

14. Every person shall, within one month after he begins to occupy a factory, send to the local Inspector a written notice containing the name of the factory and of‡ the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person§ under whom the business of the factory is to be carried on.

Penalties.

Penalties.

15.¶ (1) Any person who, in breach of this Act or of any order or rule made thereunder,—

(*a*) employs any person in any factory ;

(*b*) allows any child to perform the work forbidden by, or to work in contravention of, section 8 ;

(*c*) neglects to keep a register in manner prescribed under section 9 ;

(*d*) neglects to set up or maintain the notice required by section 10, sub-section (1) ;

(*e*) neglects to fence any machinery or mill-gearing in any factory ;

(*f*) neglects to maintain a supply of water for the use of persons employed in any factory ;

(*g*) neglects to ventilate any factory, or to keep any factory in a

* The word "next" has been inserted by Act XI. of 1891, sec. 12.

† The word "the" has been substituted for the word "such."—See Act XI. of 1891, sec. 12.

‡ The words "and of" have been inserted by Act XI, of 1891, sec. 13. (1).

§ The words "(if any)" have been repealed by Act XI. of 1891, sec. 13 (2).

¶ Sec. 15 has been substituted by Act XI. of 1891, sec. 14.

cleanly state and free from effluvia arising from any drain, privy, or other nuisance ;

(*h*) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein ; or

(*i*) neglects to send any notice or furnish any return,

shall be punished with fine which may extend to two hundred rupees :

Provided that—

(*i*) no prosecution under this sub-section shall be instituted except by, or with the previous sanction of, the local Inspector ; and

(*ii*) no person shall be liable under this sub-section to more than one penalty for any one description of offence committed on the same day, except where two or more persons are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each person so employed.

(2) Any person who corruptly uses, or attempts to use, as a certificate granted to himself under section 5, a certificate granted to another person under that section, or who, having procured a certificate under the said section, corruptly allows it to be used, or an attempt to use it to be made, by another person, shall be punished with fine which may extend to twenty rupees.

Burden of proof as to age.

16. Where an act or omission would, if a person were under nine* or fourteen† years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.

A declaration in writing by a certifying surgeon, that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

Occupier primarily liable for breaches of Act or orders or rules thereunder.

17.‡ Every occupier of a factory shall be deemed primarily liable for any breach therein of this Act or of any order or rule made thereunder ; but he may discharge himself from such liability by proof that such breach was committed by some other person without

* The word "nine" has been substituted for the word " seven." —See Act XI. of 1891, sec. 9.

† The word " fourteen" has been substituted for the word " twelve."—See Act XI. of 1891, sec. 5.

‡ Sec. 17 has been substituted by Act XI. of 1891, sec. 15.

his knowledge or consent, and in that case the person committing such breach shall be liable therefor.

Miscellaneous.

Power to make rules.

18.* (1) Subject to the control of the Governor-General in Council, the Local Government may from time to time make rules consistent with this Act to provide for—

(*a*) the fencing of machinery and mill-gearing in factories ;

(*b*) the water-supply to be maintained for the use of persons employed in factories ;

(*c*) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing, and washing) and freedom from effluvia arising from any drain, privy, or other nuisance ;

(*d*) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein ;

(*e*) the inspection of factories ;

(*f*) the manner in which appeals under this Act are to be presented and heard ; and

(*g*) otherwise carrying out the purposes of this Act.

(2) The Governor-General in Council may from time to time make rules requiring occupiers of factories to furnish such returns, occasional or periodical, as may be necessary for the effectual carrying out of this Act.

(3) Such rules shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall thereupon have the force of law.

(4) Before making rules under clause (*b*), clause (*c*), or clause (*d*) of sub-section (1) of this section the Local Government, and before making rules under sub-section (2) of this section the Governor-General in Council, shall publish, in such manner as may in its or his opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date (not less remote than two months from the publication of the notice) at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

Crown factories.

19. This Act shall apply to factories belonging to the Crown : provided that, in case of any public emergency, the Governor-General in Council or the Local

* Sec. 18 has been substituted by Act XI. of 1891, sec. 16.

Government may, by an order in writing, exempt any* factory from this Act to such extent and during such period as the Governor-General in Council or the Local Government, as the case may be, thinks fit.

Power to Local Government to extend definition of "factory."

20.† Notwithstanding anything in clause (*b*) of the definition of the word "factory" in section 2, the Local Government may from time to time, by notification in the official Gazette, declare any premises, or premises of any class, which fulfil the other conditions of the said definition, to be a factory for all the purposes of this Act, or for such of those purposes as may be specified in the notification, if the number of persons simultaneously employed in the premises on any day in any manual labour in, or incidental to, any such process as is referred to in the said clause (*b*) is less than fifty, and not less than twenty.

(2) The Local Government may, by such notification, fix any number below fifty, and not below twenty, as the number of persons whose simultaneous employment as aforesaid is to be held to subject premises, as a factory, to all or any of the provisions of this Act and of the orders and rules made thereunder.

* The word "such" has been repealed by Act XI. of 1891, sec. 17.

† Sec. 20 has been added by Act XI. of 1891, sec. 18.

PREVENTION OF CRUELTY TO ANIMALS.

ACT NO. XI. OF 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act for the prevention of Cruelty to Animals.

Preamble.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals ; It is hereby enacted as follows :—

Title, extent, and commencement, and supersession of other enactments.

1. (1) This Act may be called " The Prevention of Cruelty to Animals Act, 1890."

(2) This section extends to the whole of British India ; and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly, until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification under sub-section (2) or sub-section (3).

Definitions.

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

(1) " animal" means any domestic or captured animal ; and

(2) " street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(*a*) cruelly and unnecessarily beats, over-drives, over-loads, or otherwise ill-treats any animal, or

(*b*) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(*c*) offers, exposes, or has in his possession for sale, any live animal which is suffering pain by reason of mutilation, starvation, or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for practising phuka.

4. If any person performs upon any cow the operation called phuka, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for employing anywhere animals unfit for labour.

6. (1) If any person employes in any work or labour any animal which, by reason of any disease, infirmity, wound, sore, or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary, and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding, and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate, or, in the case of an infirmary in a Presidency-town, the Commissioner of Police, may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold, and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Penalty for permitting diseased animals to go at large or to die in public places.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street, while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to

die in any street, he shall be punished with fine which may extend to one hundred rupees.

Search-warrants.

8. (1) If a Magistrate of the first class, Sub-divisional Magistrate Commissioner of Police, or District Superintendent of Police, upon information in writing, and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5, or section 6, is being or is about to be or has been committed in any place, he may either himself enter and search, or by his warrant authorize any police-officer above the rank of a constable to enter and search, the place.

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code, shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

Limitation for prosecutions.

9. A prosecutions for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Destruction of suffering animals.

10. When any Magistrate, Commissioner of Police, or District Superintendent of Police, has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if, in his opinion, its sufferings are such as to render such a direction proper.

Saving with respect to religious rites or usages.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe, or class.

Provision supplementary to section 1 with respect to extent of Act.

12. Notwithstanding anything in section 1, sections 9, 10, and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

OBSTRUCTIONS IN FAIRWAYS.

ACT NO. XVI. OF 1881.

RECEIVED THE G.-G'.S ASSENT ON THE 15TH MARCH 1881.

An Act to empower the Government to remove or destroy Obstructions in Fairways, and to prevent the Creation of such Obstructions.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

Preamble.

Short title.

Commencement.

1. This Act may be called "The Obstructions in Fairways Act, 1881"; and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

8. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway leading to a port in British India, the placing of fishing-stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.

Penalty for breach of such rules.

9. Whoever is guilty of any act or omission in contravention of the rules made under Section eight may be tried for such offence in any district or Presidency town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

INDIAN TELEGRAPH ACT.

ACT NO. XIII. OF 1885.*

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 :—

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 and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty ; and

Commencement.

(3) It shall come into force on the 1st 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 telegraph, and includes appliances and apparatus for transmitting or making 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 established, 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 wries 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:

* This Act has been declared in force in Upper Burma (except the Shan States) by Act XX. of 1886, sec. 6 (1), and in the Sonthal Pergunnahs by Reg. III. of 1872, sec. 3, as amended by Reg. III. of 1886, sec. 2.

(6) "Telegraph-authority" means the Director-General of 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. 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.

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

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—

(*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.

Power to establish telegraph on land of Railway Company.

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 make rules for the conduct of telegraphs.

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 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 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).

Revocation of licenses.

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.

Government not responsible for loss or damage.

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, maliciously, or fraudulently.

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 :

* 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, sec. 6.

Provided that—

(*a*) the telegraph-authority shall not exercise the powers conferred by this section except for the purposes 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; and

(*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.

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

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.

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

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

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 the exercise of the powers conferred 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 undertaken by the telegraph-authority under those powers.

Power for local authority to require removal or alteration of telegraph-line or post.

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):

Power to alter position of gas or water-pipes or drains.

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.

Disputes between telegraph-authority and local authority.

(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.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (*d*) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph-authority shall be permitted to exercise them.

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

(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 en-

titled 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.

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

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:

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, which ever 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.

Removal of trees interrupting telegraphic communication.

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 the telegraph-line

was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

Telegraph-lines and posts placed before the passing of this Act.

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.

PART IV.

PENALTIES.

Establishing, maintaining, or working, unlicensed telegraph, or breaking condition of license.

20. If any person establishes, maintains, or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked, or the breach of the condition continues.

Using such telegraphs.

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.

Opposing establishment of telegraphs on railway-land.

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,

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

Unlawfully attempting to learn contents of messages.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents 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.

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.

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, put 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

(*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.

Telegraph officer fraudulently sending messages without payment.

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.

Misconduct.

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.

Sending fabricated message.

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.

Retaining a message delivered by mistake.

30. If any person fraudulently retains, or wilfully secretes, 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.

Bribery.

31. A telegraph-officer shall be deemed a public servant within the meaning of sections 161, 162, 153, 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.

Attempts to commit offences.

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

PART V.

SUPPLEMENTAL PROVISION.

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

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.

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

Application of Act to presidency towns and Rangoon.

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 for the words "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," whenever 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.

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

INDIAN TRAMWAYS ACT.

ACT NO. XI. OF 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.

Local extent.

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

(2) But the Governor of Fort St. 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,—

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway :

(7) "promoter" means a local authority or person in whose favor 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 :

(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.

Inspection of tramway before opening.

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.

Offences.

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

27. If a promoter—

(*a*) constructions 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.

Penalty for obstructing promoter in exercise of his powers.

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.

Penalty for interfering with tramway.

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.

Penalty for using tramway with carriage having flange-wheels.

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.

Penalty for evading payment of proper toll.

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 licenses 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 no 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.

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

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 licensee not giving to promoter or lessee an account of traffic or giving false account.

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.

(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 license on the tramway.

Saving of prosecutions under other laws.

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.

PETROLEUM.

ACT NO. XII. OF 1886.

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

An Act to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature ; It is hereby enacted as follows :—

PRELIMINARY.

Short title, commencement and local extent.

1. (1) This Act may be called the Petroleum 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*, appoints.

(3) "Sections 1 to 4 of this Act and the provisions"* relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time by notification in the official Gazette, direct.

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act ; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal.

2. (1) On and from the day on which this Act comes into force, the Petroleum Act, 1881, shall be repealed :

(2) But all notifications issued, rules made, licenses granted, powers conferred and certificates given under that Act shall, so far as may be, be deemed to have been issued, made, granted, conferred and given under this Act.

Definitions.

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

(1) "pertroleum" includes also the liquids commonly known by the names of rock oil, Rangoon, oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum ; but it does not include any oil ordinarily used for lubricating

* See Act XII. of 1891. (Repealing and Amending Act.)

purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer :

(2) " dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer : Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degress of Fahrenheit's thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer :

(3) " import" means to bring into British India by sea or land, and " importation" means the bringing into British India as aforesaid :

(4) " transport" means to remove from one place another within British India : and

(5) "ship" includes anything made for the conveyance by water of human beings or property.

Matters supplemental to the definitions.

4. (1) The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of " import," " importation" and " transport," the Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the official Gazette, declare—

(*a*) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported ; and

(*b*) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported ;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Dangerous Petroleum.

Dangerous petroleum in quantity exceeding forty gallons.

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

(2) Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of the petroleum which it is desired to import, transport or possess, as the case may be;

(*b*) the purpose for which the applicant believes that the petroleum will be used; and

(*c*) that the petroleum other than dangerous petroleum cannot be used for that purpose.

(3) If the Local Government sees reason to believe that the petroleum will be used for that purpose, and that no petroleum other than dangerous petroleum can be used for the purpose, it may grant the license for the importation, transport or possession (as the case may be) of the petroleum, absolutely or subject to such conditions as it thinks fit.

Dangerous petroleum in quantity not exceeding forty gallons.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license,

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any person or on the same premises, or transported, does not exceed there gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous Petroleum to be labelled.

7. Dangerous petroleum—

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels having attached thereto a label in conspicuous character stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition—

(*d*) in the case of a vessel kept, of the name and address of the consignee or owner;

(*e*) in the case of a vessel transported, of the name and address of the sender; and

(*f*) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Local Government to make rules as to importation and refining of petroleum.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

(*a*) to determine the ports at which only petroleum may be imported;

(*b*) to ascertain the quantity and description of any petroleum on board any ship;

(*c*) to determine the places at which, and the conditions on and subject to which petroleum may be discharged into boats landed, transhipped or stored;

(*d*) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, or samples of all petroleum landed or intended to be landed;

(*e*) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;

(*f*) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of petroleum; and

(*g*) to fix fees for the sampling and testing of petroleum; and

(*h*) to fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor-General in Council, may, with respect to any petroleum produced within its territories, make rules—

(*a*) to define the limits of the places, where the petroleum is to be refined;

(*b*) to provide for the testing of the petroleum at or near those places; and

(c) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

Procedure after petroleum has been discharged or landed.

9. (1) Petroleum discharged into boats or landed in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee within a time to be fixed by the Local Government in this behalf,—

(a) to rectify the petroleum,

(b) to apply for a license to import the petroleum as dangerous petroleum, or

(c) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

10. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises or shall be transported except under, and in accordance with the conditions of, a license granted under this Act.

Power to make rules as to possession and transport.

11. (1) The Local Government, with the previous sanction of the Governor-General in Council, may make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say :—

in the case of licenses to possess petroleum—

(*a*) the nature and situation of the premises for which they may be granted, and

(*b*) the inspection of the premises and the testing of petroleum found thereon ;

in the case of licenses to transport petroleum—

(*c*) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and

(*d*) the stoppage and inspection of it during transit ;

in the case of both such licenses—

(*e*) the authority by which the license may be granted ;

(*f*) the fee to be charged for it ;

(*g*) the quantity of petroleum it is to cover ;

(*h*) the conditions which may be inserted in it ;

(*i*) the time during which it is to continue in force ; and

(*j*) the renewal of the license.

(3) The Governor-General in Council may make rules consistent with this Act as to the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required ; and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by a Local Government with respect to licenses to transport petroleum may provide.

Power to inspect and require dealer to sell samples.

12. Any officer specially authorised by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be given when officer proposes to test samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Certificate as to result of testing.

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken is or is not dangerous petroleum, the officer or other person may certify the fact ; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein ; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

Penalties.

Penalty for illegal importation, possession, or transport of petroleum.

15. Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for keeping, transporting, selling or exposing for sale petroleum in contravention of section 7.

16. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not labelled as prescribed by section 7, shall be punished with fine which may extend to five hundred rupees.

Penalty for refusing to comply with section 12.

17. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees.

Confiscation of petroleum.

18. In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

19. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test apparatus.

Model test-apparatus.

20. A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatuses."

Verification of test-apparatus.

21. (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to certain corrections to be applied to the results of tests, the Chemical Examiner shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor-General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor-General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor-General in Council may, by notification in the *Gazette of India*, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to Local Government to exempt petroleum from operation of this Act.

22. The Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any or the rules made under

this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheits thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to apply this Act to other fluids.

23. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 10, the quantities of the fluid to which those sections shall apply.

Power to limit operation of enactments relating to municipalities.

24. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Power to revoke or vary notifications.

25. A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

Procedure for making and publication of rules.

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

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

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

(4) The authority making the rules 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) A rule made under this Act shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

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

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts —

(1) the oil cup ;

(2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame ;

(3) the water-bath or heating vessel ;

(4) the tripod stand, with jacket and spirit-lamp for heating the water-bath ;

(5) the thermometer for indicating the temperature of the oil in the oil-cup ;

(6) the thermometer for indicating the temperature of the water in the water-bath ;

(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;

(8) the dropping bottle or *pipette* for replenishing the test-lamp ; and

(9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gunmetal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting over-lapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports be means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide, is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and titled in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two ; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the Sample and preparing it for Testing.

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1. *Preparing the water-bath.*—The water bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is cooled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good

light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test lamp, prepared as already described, is placed in position, and the cover is then put on to the cup, and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until flash occurs, or until a temperature of 95° Fahrenheit has been reached.

* If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner, and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while is no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected, and the average taken in the manner already described.

* If, however, a flash has occurred at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lawer than the temperature at which the flash has been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°, and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests, in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47° and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test flame is to be continued at every

* See Act XIV of 1890.

degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200°, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of $1\frac{1}{2}$ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wipped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure*.—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner.

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 78·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in Inches.

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30 6	30·8	31
Flashing Point in Degrees Fahrenheit.																				
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66 3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65 4	65·7	66	66·4	66·7	67	67 3	67 6	68	68·3	68·6
63·2	63·5	63 8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67 4	67·7	68	68 3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66 4	66 8	67·1	67·4	67·7	68	68·4	68 7	69	69·3	69 6	70	70·3	70·6
65 2	65·5	65 8	66·2	66·5	66·8	67 1	67·4	67·8	68·1	68·4	68·7	69	69·4	69 7	70	70 3	70·6	71	71 3	71 6
66·2	66·5	66·8	67 2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70 4	70·7	71	71·3	71 6	72	72·3	72 6
67·2	67·5	67·8	68·2	68 5	68·8	69 1	69·4	69·8	70 1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70 2	70 5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73 7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73 8	74·1	74 4	74 7	75	75·4	75 7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73 8	74·1	74 4	74 8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76 4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80 3	80 6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79 4	79·7	80	80·3	80·6	81	81·3	81·6

INDIAN MARINE ACT.

ACT NO. XIV. OF 1887.

RECEIVED THE G.-G'.S ASSENT ON THE 30TH JUNE 1887.

As amended by Act XVII of 1888.

An Act for the better administration of Her Majesty's Indian Marine Service.

WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor-General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service :—

Provided that—

(*a*) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits ; and

(*b*) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude ;

And whereas it is further provided by the said Indian Marine Service Act that, subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament ;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor-General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service ;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (1) This Act may be called the Indian Marine Act 1887 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

Definitions.

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

(*a*) "person subject to this Act" means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act :

(*b*) "gazetted officer" means a person who by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
First-grade officer,	Engineer,
Second-grade officer,	Assistant Engineer, or
Third-grade officer,	Clerk :

(*c*) "warrant officer' means a person, who by virtue of his appointment, is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
Apothecary,	Carpenter,
Assistant Apothecary,	Hospital Assistant, or
Assistant Clerk,	General mess steward :

(*d*) "petty officer" means a person who, by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,	Tindal of lascars, first class,
Chief syrang, second class,	Tindal of lascars, second class,
Ship's steaward,	Tindal of stokers, first class,
Engine-driver, second class,	Tindal of stokers, second class,
Cook on a salary of not less than 50 rupees per mensem,	Cassaub, first class,
General mess butler,	Cassaub, second class, or
Syrang of lascars, first class,	Cook on a salary of less than fifty rupees per mensem :
Syrang of lascars, second class,	

(*e*) "superior officer," used with reference to an officer of a rank mentioned in clause (*b*), clause (*c*) or clause (*d*) of this sub-section,

means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses :

(*f*) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor-General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons :

(*g*) "enemy" includes a pirate or rebel :

(*h*) "Indian Marine Court" means an Indian Marine Court held under this Act :

(*i*) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India, or such a Court established elsewhere by the authority of the Governor-General in Council : and

(*j*) "prescribed" means prescribed by rules made by the Governor-General in Council.

"(2.) The Governor-General in Council may, by notification in the *Gazette of India*, vary any of the definitions in clauses (*b*), (*c*), and (*d*) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression 'superior officer' in clause (*e*) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force."*

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(*a*) cause to be read and explained to him the rules of the service,

(*b*) administer to him an oath of allegiance, and

(*c*) cause him to sign a roll.

(2) The rules, oath, and roll, shall be in prescribed forms.

General power to make rules.

4. In addition to any other rules which may be made under this Act, the Governor-General in Council may, by notification in the *Gazette of India*, make rules consistent with this Act for the guidance of officers, whether Military, Indian Marine, Civil, or Political, in all matters connected with its enforcement.

* Substituted by Act XVII of 1888.

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the presence of the Enemy.

Misconduct of commanding officer in action.

5. If a commanding officer—

(i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

(ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

(iv) in time of action improperly withdraws from the fight, he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Not pursuing the enemy, or not assisting a friend in view.

6. If any officer subject to this Act—

(i) forbears to pursue the chase of any enemy beaten or flying or

(ii) does not relieve and assist a known friend in view to the utmost of his power, or

(iii) improperly forsakes his station,

he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging action or service, or deserting post, or sleeping on watch.

7. If any person subject to this Act,—

(i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or

(ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Misconduct of subordinate officers and men in action.

8. If any person, subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude, or such other punishment as is hereinafter mentioned ;

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Corresponding, &c., with the enemy.

9. If any person subject to this Act—

(i) treacherously holds correspondence with, or gives intelligence to, the enemy, or

(ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Improper communication with the enemy.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Neglect of Duty.

Neglect of duty.

11. If a person subject to this Act deserts his post, or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment, or such other punishment as is hereinafter mentioned.

Mutiny.

Mutiny accompanied by violence.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death, or such other punishment as is hereinafter mentioned ; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

(*a*) if he has acted traitorously, suffer death, or such other punishment as is hereinafter mentioned ;

(*b*) if he has acted from cowardice, suffer penal servitude, or such other punishment as is hereinafter mentioned ;

(*c*) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Mutiny not accompanied by violence.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inciting to mutiny.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Mutinous assembly or uttering seditious words.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude, or such other punishment as is hereinafter mentioned.

Concealing traitorous, mutinous or seditious practice, design, or words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous, practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design, or word, tending to the hindrance of the service, shall suffer penal servitudes or such other punishment as is hereinafter mentioned.

Striking or using violence to superior officer.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Insubordination.

Disobedience or using threatening language to superior officer.

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

Desertion.

19. A person subject to this Act who—

(i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place; or

(ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money any allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor-General in Council.

Inducing any person to desert.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Breaking out of vessel.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Absence without leave.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

Miscellaneous Offences.

Drunkenness on broadship or on duty.

23. A person subject to this Act who is guilty of any drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Cruelty or misconduct by officer.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous of fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering vessel to be lost or imperilled.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace

from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful taking of goods on board.

26. An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant, or on board any vessel, which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour, or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned.

Embezzling public stores.

27. A person subject to this Act who wastefully expends, embezzeles or fraudulently buys, sells, or receives any ammunition, provisions, or other public stores, or knowingly permits any such wasteful expenditure, embezzlement, or fraudulent purchase, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Arson.

28. A person subject to this Act who unlawfully sets fire to any dock-yard, victualling yard, steam factory yard, arsenal, magazine, building, or stores, or to any ship, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Making false documents.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Malingering or misconduct in hospital.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment, or such other punishment as is hereinafter mentioned.

Creating disturbance on account of complaints.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that offi-

cer, shall inquire into the complaint, and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Offences to the prejudice of good order and discipline not otherwise specified.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service, or suffer such other punishment as is hereinafter mentioned:

Provided that, if such act, disorder or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

Not assisting in arresting offenders.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment, or such other punishment as is hereinafter mentioned.

Contempt of Court.

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a Commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect, and to one month in the case of such contempt.

False evidence.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

Offences punishable by Ordinary Law.

Offences punishable by ordinary law.

36. If a person subject to this Act is guilty of any criminal offence which, if committed in British India, would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British

India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India:

Provided that, except as authorised by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

Schedule of punishments.

37. (1) The following punishments may be inflicted under this Act:

(*a*) death;

(*b*) penal servitude;

(*c*) dismissal with disgrace from the Indian Marine Service;

(*d*) imprisonment;

(*e*) dismissal from the Indian Marine Service;

(*f*) loss of seniority as an officer for a specified time or otherwise;

(*g*) dismissal from the vessel to which the offender belongs;

(*h*) severe reprimand, or reprimand;

(*i*) disrating a warrant-officer or petty officer or any other person below that rank;

(*j*) forfeiture of pay, bounty, salvage, prize-money, and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments.

38. The following regulations shall apply to the infliction of punishments:—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer, or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

Scale of Punishments.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Limitation of time for trials.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any of offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

CHAPTER III.

JURISDICTION AND POWERS.

Offences congizable by Criminal Courts and Indian Marine Courts, respectively.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to Criminal Procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts, or both, shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table :—

Section of this Act.	Marginal note.	Court having jurisdiction.
Section 5 ...	Misconduct of commanding officer in action ...	Criminal Courts and Indian Marine Courts.
„ 6 ...	Not pursuing the enemy, or not assisting a friend in view.	
„ 7 ...	Delaying or discouraging action or service, or deserting post, or sleeping on watch.	
„ 8 ...	Misconduct of subordinate officers and men in action.	
„ 9 ...	Corresponding, &c., with the enemy ...	
„ 10 ...	Improper communication with the enemy.	
„ 11 ...	Neglect of duty	Indian Marine Courts.
„ 12 ...	Mutiny accompanied by violence ...	Criminal Courts and Indian Marine Courts.
„ 13 ...	Mutiny not accompanied by violence ...	
„ 14 ...	Inciting to mutiny	
„ 15 ...	Mutinous assembly or uttering seditious words	
„ 16 ...	Concealing traitorous, mutinous, or seditious, practice, design or words ...	
„ 17 ...	Striking or using violence to superior officer	Indian Marine Courts.
„ 18 ...	Disobedience or using threatening language to superior officer	
„ 19 ...	Desertion	Criminal Courts and Indian Marine Courts.
„ 20 ...	Inducing any person to desert ...	
„ 21 ...	Breaking out of vessel	
„ 22 ...	Absence without leave	Indian Marine Courts.
„ 23 ...	Drunkenness on boardship or on duty	
„ 24 ...	Cruelty or misconduct by officer ...	
„ 25 ...	Suffering vessel to be lost or imperilled.	
„ 26 ...	Unlawful taking of goods on board ...	
„ 27 ...	Embezzling public stores	Criminal Courts and Indian Marine Courts.
„ 28 ...	Arson	
„ 29 ...	Making false documents	
„ 30 ...	Malingering or misconduct in hospital	Indian Marine Courts.
„ 31 ...	Creating disturbance on account of complaints	
„ 32 ...	Offences to the prejudice of good order and discipline not otherwise specified.	
„ 33 ...	Not assisting in arresting offenders ...	Criminal Courts and Indian Marine Courts.
„ 34 ...	Contempt of Court	
„ 35 ...	False evidence	
„ 36 ...	Offences punishable by ordinary law....	Criminal Courts.

Power to pass sentences.

42. Subject as aforesaid-

(*a*) Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment ; and

(*b*) an Indian Marine Court may pass any sentence authorised by this Act, except a sentence of death, penal servitude, or transportation or of imprisonment for a term exceeding two years.

Jurisdiction and powers of commanding officers.

43. (1) An offence triable by an Indian Marine Court, and committed by a person other than a gazetted officer, may, under such regulations as the Governor-General in Council may make, be summarily tried and punished by the commanding officer of the offender.

(2) Subject to the provisions of this Act and to such restrictions as the Governor-General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

Place of trial.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Jurisdiction over person ceasing to be subject to Act.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Case of person charged with an offence cognizable by a Criminal Court.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely :—

(*a*) any person subject to this Act shall, on application made to him by the Court assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court ;

(*b*) when no requisition is made under clause (*a*), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

Case of person charged with an offence cognizable

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under

by an Indian Marine Court or commanding officer.

this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person, and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Conflict of jurisdiction.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor-General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

Previous conviction or acquittal.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

Application of Act XV of 1869 to Indian Marine Courts.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

Powers of Governor-General in Council in respect of sentences.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted ; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

Power to convene Indian Marine Court.

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely :—

(*a*) the Governor-General in Council ;

(*b*) the Director of marine ;

(*c*) an officer empowered in that behalf by warrant of the Governor-General in Council :

Provided that an Indian Marine Court assembled for the trail of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor-General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service, reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

Composition of Indian Marine Court.

53. (1) An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first-grade officer, as may be ordered by the convening authority ;

Provided that an Indian Marine Court convened under section 52, sub-section (2) may be composed of the officer convening the same as president and the two graded officers next in a seniority available for the duty.

(2) The president of an Indian Marine Court for the trial of a commander shall always be a commander, and two at least of the other officers composing the Court shall be commanders.

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 52, sub-section (2), shall be a commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be desolved.

Procedure at the Trial.

Place of sitting of Indian Marine Court.

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

Challenge.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not in the Court, subject to the regulations contained in section 53, sub-section (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection has been disallowed.

Oaths.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

Trial of officers and crew by one Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction, or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court, and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

Dissolution of Court on illness of prisoner.

58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved :

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial, of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

Re-trial of prisoner after dissolution of Court.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Clearing of Court.

60. The President may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Decision of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote :

Provided that if there is an equality of votes on the finding the decision shall be in favor of the prisoner.

Summoning witnesses.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

Summary punishment of certain contempts.

63. When a person subject to this Act who, being duly summoned or ordered to attent as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him

for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

Confirmation of Findings and Sentences.

Submission of proceedings to confirming authority.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

Confirmation of findings and sentences.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

Confirming authority.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor-General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor-General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor-General in Council.

(3) The fact that the Governor-General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

Powers of confirming authority.

67. (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision ; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(*a*) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court ;

(*b*) suspend for such time as seems expedient the execution of the sentence ;

(c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefore.

(4) Notwithstanding any error, omission, or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

Evidence.

68. The Indian Evidence Act, 1872, subject to such modifications therein as the Governor-General in Council may, by notification in the *Gazette of India*, direct, shall apply to all proceedings before Indian Marine Courts.

Law of evidence applicable.

Preservation of Proceedings.

69. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

Preservation of Indian Marine Court proceedings and grant of copies.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

Power to make Rules respecting Procedure.

70. (1) The Governor-General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

Power to make rules respecting procedure.

(2) The Governor-General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882.

CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor-General in Council, by notification in the *Gazette of Inaia*,

Procedure of Criminal Courts beyond British India.

directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

Arrest.

Arrest of offenders.

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act :—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority ; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

Power of commanding officer.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with, but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Execution of sentences of Indian marine Courts and Commanding Officers.

Commencement of sentences of imprisonment.

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(2) When a person, already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation, or imprisonment to which he has previously been sentenced :

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of impri-

sonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

Execution of such sentences.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

(*a*) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may at any time, by order in writing, direct that he be discharged ;

(*b*) the Director of Marine or any Commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

Savings.

Saving of authority of ordinary Courts.

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Minor punishments.

77. Nothing in this Act shall affect any rules, regulations, conditions, or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

(*a*) to dismissal, loss of seniority, disrating, forfeiture or stoppages ; or

(*b*) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

Amendment of Acts.

Amendment of Act X of 1882, section 54 (Arrest of Deserters).

78. In the Code of Criminal Procedure, 1882, section 54, after the words "army or Navy" the following shall be inserted, namely :—

" or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely :—

Application of foregoing sections to the Indian Marine Service.

" 138A. The foregoing sections of this chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen."

* * * * *

ELECTRICITY.

ACT NO. XIII. OF 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes ;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Electricity Act, 1887.

(2) It shall extend to the whole of British India ; and

(3) It shall come into force on the first day of July 1887.

Definitions.

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

(1) "electricity" includes galvanism, magnetism, magneto-electricity and electro-magnetism :

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act :

(3) "purpose" includes any purpose except the transmission of a message : and

(4) "vessel" includes anything used for the conveyance by water of human beings or of property.

Notice of intention to supply or use electricity.

3. In either of the following cases, namely :—

(*a*) if a person intends to undertake the business of supplying electricity, or

(*b*) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate, or, in a Presidency town, to the Commissioner of Police.

Power to make rules.

4. (1) The Governor-General in Council may make such rules as he thinks expedient—

(*a*) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and

(*b*) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor-General in Council, and shall be of the same force as if enacted by this Act.

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

Penalties.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect, and examine any place, carriage, or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule, or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a Presidency town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement, or obstruction continues.

Exercise for the purposes of the Government of the Powers of the telegraph authority.

6. The Governor-General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained.

NATIVE PASSENGER SHIPS.

ACT NO. X. OF 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH FEBRUARY 1887.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title.

1. This Act may be called the Native Passenger Ships Act, 1887.

Extent and application.

2. (1) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty ;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India ; and,

(*c*) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.

(2) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or

(v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commencement.

3. This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

Repeal.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act ; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

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

(1) "ship" means a ship to which this Act applies :

(2) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards, and is not on the articles of the ship as one of the crew ; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age ; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger :

(3) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port :

(4) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port :

(5) "voyage," when used without the prefix "long" or "short," means the whole distance between the ship's port or place of departure and her final port or place of arrival :

(6) "Chief Customs officer" means the chief executive officer of sea-customs in any port or place to which this Act applies : and

(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

Ships to sail only from places appointed by the Government.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

Notice to be given of day of sailing.

7. (1) The master, owner or agent of a ship so departing or proceeding, shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

Power to enter on and inspect ship.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Ship not to sail without two certificates.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate B.

11. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch ;

(*b*) that she has the proper complement of officers and seamen ;

(*c*) that food, fuel, and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention

in quarantine as may be probable) according to the scale for the time being prescribed by those rules ;

(*d*) that the master holds certificate A ;

(*e*) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;

(*f*) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act ; and

(*g*) such other particulars, if any, as may be prescribed by those rules.

Grant of certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

(*a*) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(*b*) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall than be deemed to be a certificate A for the purposes of this Act.

Survey of ship.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make :

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (*a*) or clause (*b*), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she

may be found unseaworthy or not properly equipped, fitted, or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted, and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely, from its quality, quantity or mode of stowage, to prejudice the health or safety of the passengers.

(2) But, save as aforesaid, and subject to the provisions of subsection (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Copy of certificates to be exhibited.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Supply by passengers of their own food.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

Space to be available for passengers.

18. (1) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet avilable for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section seven a supplementary certificates stating—

(*a*) the number of passengers so taken on board, and

(*b*) that food, fuel, and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that, if the certificate B held by the master of the ship states that food, fuel, and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Deaths on voyage.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor-General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

Space to be available for passengers.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

23. The Master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place.

24. (1) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(*b*) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7,

and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to carry medical officer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medicial officer licensed in accordance with the rules under this Act.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Bill of health at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bond where ship clears for port in Red Sea.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner, or agent of the ship and two sureties resident in British India have executed in favor of the Secretary of State for India in Council a Joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(*b*) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

Power for Local Government to direct medical inspection of passengers.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

Penalty for ship unlawfully departing or receiving passengers on board.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act;

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

Penalty for opposing entry on or inspection of ships.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not exhibiting copy of certificates.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

34. If a master fails to comply with any of the requirements of section 22 or section 23 as to the statements concerning passengers or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for fraudulent alteration in ship after certificate obtained.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19, or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers, or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for failing to supply passengers with prescribed provisions.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel, and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further the liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of

that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for bringing passengers from foreign port in excess of authorized number.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

Penalty for landing passenger at a place other than that at which he has contracted to land.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for making voyage in contravention of contract with passengers.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not obtaining bill of health at Aden.

43. If, in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 30.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

Adjudication of offences, and levy of fine by distress on ship.

46. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Jurisdiction.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Authority to institute proceedings for penalties.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the chief Customs-officer.

Application of fines.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Depositions of absent witnesses.

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Provided that the deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the Justice, Magistrate or Consular officer ;

(*b*) it was made in the presence of the person accused ; and

(*c*) the fact that it was so made is certified by the Justice, Magistrate or Consular Officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Information to be sent to ports of embarkation and discharge.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British

India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

Report of Consul.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power for Governor-General in Council and Local Government to make rules.

53. (1) The Governor-General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;

(*d*) the boats, anchors and cables to be provided on board ;

(*e*) the instruments for purposes of navigation to be supplied ;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;

(*i*) the access of between-decks passengers to the upper deck ; and

(*j*) generally to carry out the purposes of this Act.

(2) The Local Government, may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

(*a*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and

(*b*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

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

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

Appointment of officers.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Power to declare what shall be deemed "seasons of fair weather" and "long voyages."

55. The Governor-General in Council may declare, by notification in the *Gazette of India*, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steamships respectively, a "long voyage" and a "short voyage."

Power to Prescribe space to be available for passengers.

56. The Governor-General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor-General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

Power to exempt ship from provisions of Act.

57. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

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

SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 4.)

Number and Year.	Title.	Extent of repeal.
VIII of 1876 ...	Native Passenger Ships Act, 1876.	The whole.
XVII of 1883 ...	Native Passenger Ships Act, 1883	The whole.
VII of 1884 ...	Indian Steam-ships Act, 1884 ...	Section 41.

QUARANTINE.

ACT NO. I. OF 1870.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1870.

*An Act to provide Rules relating to Quarantine.**

Preamble.

WHEREAS it is expedient to empower expressly the Governor-General of India in Council and the Local Governments to make rules relating to quarantine; It is hereby enacted as follows:—

Power to make quarantine rules.

1. It shall be lawful for the Governor General of India in Council and (with the previous sanction of the said Governor-General in Council) for the Local Governments respectively, from time to time, to make rules.

for putting any vessel into a state of quarantine;

for regulating the intercourse of vessels in a state of quarantine with the shore, or with other vessels; and

for regulating the intercourse between ports where an infectious disease prevails and other ports.

Quarantine rules to be deemed rules under section 271 of Penal Code.

2. All such rules shall be published in the *Gazette of India* and also in the Local Gazette,† and shall thereupon be deemd to be rules made and promulgated under section 271 of the Indian Penal Code.

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* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV. of 1874.

† See rules for twenty-two Madras Ports, *Gazette of India*, 14th September 1872, p. 872, *Fort St. George Gazette*, 1st October 1872, p. 1617: Supplementary Rules, Gazette of India, 4th October 1873, p. 881, Port Surgeons, Fort St. George Gazette, 7th September 1875, p. 1509.

Rules for eight Burmese Ports, Gazette of India, 29th March 1873, p. 271.

SEA CUSTOMS.

ACT NO. VIII. OF 1878.

[*EXTRACTS.*]

RECEIVED THE G.-G's ASSENT ON THE 8TH MARCH 1878.

An Act to consolidate and amend the Law relating to the Levy of Sea Customs-duties.

(*As Amended up to date.*)

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties ; It is enacted as follows:—

CHAPTER XVI.

OFFENCES AND PENALTIES.

Punishment for offences.

167. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively :—

Offences.	Section of this Act to which offence has reference.	Penalties.
1.—Contravening any rule made under this Act.	General.	Penalty not exceeding five hundred rupees.
2.—If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped,	11	such goods shall be liable to confiscation.

ART. 2.—In the matter of landing or shipping goods beyond port limits, this article applies a remedy; but there is nothing to meet the case of a vessel anchoring out of port limits and landing passengers and drawing payment of port dues.—Bd.'s Pros., 7th August, 1880, No. 1, 115.

OFFENCES AND PENALTIES, &c —(*continued.*)

Offences.	Section of this Act to which offence has reference.	Penalties.
at any port or place which, at the date of such landing, shipment, attempt or bringing, is not a Port for the landing and shipment of goods,		
3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, or intended to be shipped or landed, contrary to the provisions of this Act; or	General.	such person shall be liable to a penalty not exceeding one thousand rupees.
If any person be found to have been on board of any vessel liable to confiscation on account of the commission of an offence under No. 4 of this section,* while such vessel is within any bay, river, creek or arm of the sea which is not a Port for the shipment and landing* of goods,		
4.—If any vessel which has been within the limits of any Port in British India with cargo on board, be afterwards found in any port, bay, river, creek or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the customs-port where such vessel lawfully discharged her cargo,	11	such vessel shall be liable to confiscation.
5.—If any goods are put, without the authority of the proper officer of Customs, on board of any tug-steamer or pilot-vessel from any sea-going vessel inward-bound; or	11	such goods shall be liable to confiscation, and the Master of every such tug-steamer or pilot-vessel shall be liable to a penalty not exceeding one thousand rupees.
if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the pur-		

* See Act XII of 1891, Second Schedule.

OFFENCES AND PENALTIES, &c.—(*continued.*)

Offences.	Section of this Act to which offence has reference.	Penalties.
pose of being put on board of any vessel outward-bound; or If any goods on which drawback has been granted or put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,		
6.—If any vessel arriving at, or departing from, any Customs-port fails, when so required under section 17, to bring to at any such station as has been appointed by the Chief Customs-Authority for the boarding or landing of an officer of Customs.	17	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
7.—If any vessel arriving at any Customs-port, after having come to its proper place of mooring or unlading, removes from such place, except with the authority of the Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, to some other place of mooring or unlading, or if any vessel not brought into Port by a Pilot be not anchored or moored in accordance with any direction of the Chief Customs-Authority under section 17,	17	the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.
8.—If any goods, the importation or exportation of which is for the time being prohibited or restricted by or under Chapter IV of this Act, be imported into, or exported from, British India contrary to such prohibition or restriction; or any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any officer	18 & 19	such goods shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees.

OFFENCES AND PENALTIES, &c.—(*continued.*)

Offences.	Section of this Act to which offence has reference.	Penalties.
of Customs as containing no such goods; or if any such goods, or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in British India; or if any goods, the exportation of which is prohibited or restricted as aforesaid, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,		
9.—If upon an application to pass any goods through the Custom house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner,	General.	such person shall be liable to a penalty not exceeding one thousand rupees.
10.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported or are unshipped or relanded at any Customs-port (not having been duly re-landed or discharged under the provisions of this Act.)	42 & 43	such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation; and the Master of the vessel from which such goods are so unshipped or re landed, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such un-shipping or re-landing, shall be liable to a penalty not

OFFENCES AND PENALTIES, &c.—(*continued.*)

Offences.	Section of this Act to which offence has reference.	Penalties.
		exceeding three times the value of such goods, or not exceeding one thousand rupees.
11.—If any wine, spirit, provisions or stores be not laden on board of the vessel on board of which they should, under the provisions of sections 45, 46, 47 or 48, be laden, or be unladen from such vessel without the permission of the proper officer of Customs,	44 to 48	such wine, spirit, provisions or stores shall be liable to confiscation.
12.—If any goods be entered for draw-back, which are of less value than the amount of the draw-back claimed,	50	such goods shall be liable to confiscation.
13.—If, in any river or Port wherein a place has been fixed under Section 53 by the Local Government, any vessel arriving passes beyond such place, before delivery of a manifest to the pilot, officer of Customs, or other person duly authorized to receive the same, or	53	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
14.—If the Master of any vessel arriving which remains outside or below any place so fixed wilfully omits, for the space of twenty four hours after anchoring, to deliver a manifest as required by this Act.	53	such Master shall be liable to a penalty not exceeding one thousand rupees.
15.—If, after any vessel arriving has entered any Customs-port in which a place has not been fixed under Section 53, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act,	54	such Master shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES, &c.—*(continued)*.

Offences.	Section of this Act to which offence has reference.	Penalties.
16.—If any manifest delivered under sections 53, 54, 60, 63 or 66 is not signed by the person delivering the same and is not in the form or does not contain the particulars required by Section 55 or 63, as the case may be, in so far as such particulars are applicable to the ship, cargo and voyage; or if any manifest so delivered does not contain a specification true to the best of such person's knowledge of all goods imported or to be exported in such vessel,	55 & 63	the person delivering such manifest shall be liable to a penalty not exceeding one thousand rupees.
17.—If any goods entered in the import manifest of a vessel are not found on board of the vessel; or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the officer in charge of the Custom-house,	55 & 64	the Master of such vessel shall be liable to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be dutiable and the duty leviable thereon can be ascertained, or otherwise to a penalty not exceeding five hundred rupees for every missing or deficient package or separate article.
18.—If any person required by this Act to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in Section 56,	53, 54 & 56	such person shall be liable to a penalty not exceeding five hundred rupees.
19.—If bulk be broken in any vessel previous to the grant by the Customs-collector, of an order for entry inwards or a special pass permitting bulk to be broken.	57 & 59	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES, &c.—(*continued.*)

Offences	Section of this Act to which offence has reference.	Penalties.
20.—If any bill of lading or copy required under section 58 is false and the Master is unable to satisfy the Customs-collector that he was not aware of the fact; or if any such bill or copy has been altered with fraudulent intent; or if the goods mentioned in any such bill or copy have not been *bona fide* shipped as shown therein; or if any such bill of lading or any bill of lading of which a copy is delivered, has not been made previously to the departure of the vessel from the place where the goods referred to in such bill of lading were shipped; or if any part of the cargo has been staved, destroyed or thrown overboard; or if any package has been opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Customs-collector,	58	the Master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
21.—If any Master of a vessel attempts to depart without a port-clearance,	62	such Master shall be liable to a penalty not exceeding five hundred rupees.
22.—If any vessel actually departs without a port-clearance,	62	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
23.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance.	62	such pilot, on conviction before a Magistrate, shall be liable to a fine not exceeding one thousand rupees.
24.—If any Master of a vessel refuses to receive on board an officer of customs deputed under section 67,	62	such Master shall be liable to a penalty not exceeding five hundred rupees for each day during which such

OFFENCES AND PENALTIES, &c.—*(continued)*.

Offences.	Section of this Act to which offence has reference.	Penalties.
		officer is not received on board; and the vessel if not entered shall not be allowed to enter until such penalty is paid.
25.—If any Master of a vessel refuses to receive on board one servant of such officer, or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	68	such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
26.—If any Master of a vessel refuses to allow such vessel, or any box, place or closed receptacle in such vessel, to be searched when so required by an officer of customs bearing a written order to search; or	69	the Master of such vessel shall be liable, upon conviction before a Magistrate, to a fine not exceeding one thousand rupees.
if an officer of Customs places any lock, mark or seal upon any goods in a vessel, and such lock, mark or seal is wilfully opened, altered or broken, before due delivery of such goods; or		
if any such goods are secretly conveyed away; or		
if any hatchway or entrance to the hold of a vessel, after having been fastened down by an officer of Customs, is opened without his permission,		
27.—If the Master of any vessel laid up by the withdrawal of the officer of Customs shall, before application is made by him for an officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, in contravention of Section 70,	70	such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be relanded for examination at the expense of the vessel, and, if not protected by a pass, shall be liable to confiscation.

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
28.—If any master of a vessel in any case other than that provided for by No. 27 causes of suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of Sections 70, 72, or 75,	70, 72 & 75	such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation.
29.—If when a boat-note is required by Section 76 any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without such note; or	76	such goods shall be liable to confiscation; and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty (if any) leviable on the said goods.
if any goods are found on board any boat in excess of such boat-note whether such goods are intended to be landed from, or to be shipped on board of, any vessel,		
30.—If any person refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, as required by Section 76, or if any Master or officer of a vessel receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition,	76	such person, master or officer shall be liable to a penalty not exceeding five hundred rupees.
31.—If any goods are, without permission, shipped or water borne to be shipped or are landed except from or at a wharf or other place duly appointed for the purpose; or	73	such goods shall be liable to confiscation; and the person by whose authority the goods are shipped, landed, water-borne, or transhipped and the person in charge of the vessel employed in conveying them, shall each be liable to a penalty not exceeding twice the amount of duty (if any) leviable on such goods.
if any goods water-borne for the purpose of being landed or shipped are not landed or shipped without unnecessary delay; or	77	
if the boat containing such goods be found out of the proper track	78	

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the Customs-collector; or if any goods are transhipped contrary to the provisions of Section 78,		
32.—If, after the issue of a notification under Section 79 with regard to any Port, any goods are found, within the limits of such Port on board of any boat not duly licensed and registered.	79	such goods, unless they are covered by a special permit from the Customs-collector, shall be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees.
33.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel,	55 & 82	such Master shall be liable to a penalty not exceeding one thousand rupees.
34.—If any goods are found concealed in any place, box, or closed receptacle in any vessel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house,	General	such goods shall be liable to confiscation:
35.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,	55 & 82	such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the chief officer of Customs directs.
36.—If, after any goods have been landed and before they have been passed through the Custom-house the owner removes or attempts to remove them, with the intention of defrauding the revenue.	86 & 87	such goods shall be liable to confiscation; or if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
		twice the amount of such duty, if the goods be dutiable and the duty leviable thereon can be ascertained ; or, otherwise to a penalty not exceeding one thousand rupees for every missing or deficient package or separate article.
37.—If it be found, when any goods are entered at, or brought to be passed through, a Custom-house, either for importation or exportation that	86 & 137	such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and
(*a*) the packages in which they are contained differ widely from the description given in the bill-of-entry or application for passing them ; or		every person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
(*b*) the contents thereof have been wrongly described in such bill or application as regards the denominations, characters or conditions according to which such goods are chargeable with duty, or are being imported or exported ; or		
(*c*) the contents of such packages have been mis-stated in regard to sort, quality, quantity or value ; or		
(*d*) goods not stated in the bill of entry or application have been concealed in, or mixed with, the articles specified therein, or have apparently been packed so as to deceive the officers of Customs, and such circumstance is not accounted for to the satisfaction of the Customs-collector,		

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences	Section of this Act to which offence has reference.	Penalties.
38.—If, when goods are passed by tale or by package, any omission or misdescription thereof tending to injure the revenue be discovered,	86 & 94	the person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or mis-description, unless it be proved to the satisfaction of the officer in charge of the Custom house that the variance was accidental.
39.—If, without entry duly made, any goods are taken or passed out of any Custom-house or wharf,	86	the person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
40.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	General	such passenger shall be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
41.—If any goods entered to be warehoused are carried into the warehouse, unless with the authority, or under the care, of the proper officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such officers direct,	93	such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees.
42.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or are withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer.	94	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.

OFFENCES AND PENALTIES, &c.—*(continued).*

Offences.	Section of this Act to which offence has reference.	Penalties.
43.—If any warehoused goods be not warehoused in accordance with sections 94 and 95.	94 & 95	such goods shall be liable to confiscation.
44.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled to have access thereto, or upon demand made by any such officer, refuses access to any such officer,	97	such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled.
45.—If the keeper of any public warehouses, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	Chap. XI.	such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees.
46.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in the presence of the proper officer of Customs, gains access to his goods,	99	such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees.
47.—If any warehoused goods are opened in contravention of the provisions of section 98; or if any alteration be made in such goods or in the packing thereof, except as provided in Section 100,	98 & 100	such goods shall be liable to confiscation.
48.—If any goods lodged in a private warehouse are found at the time of delivery therefrom to be deficient, and such deficiency is not due solely to ullage or wastage, as allowed under Sections 116 and 117.	123	the licensee of such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Customs-collector, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

OFFENCES AND PENALTIES, &c.—*(continued)*.

Offences.	Section of this Act to which offence has reference	Penalties.
49.—If the keeper of any public warehouse, or the licensee of any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the Customs-collector,	123	such keeper or licensee shall, for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.
50.—If any goods, after being duly warehoused, are fraudulently concealed in, or removed from, the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment,	Chap. XI.	such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
51.—If any goods lodged in a private warehouse are found to exceed the registered quantity,	ditto.	such excess, unless accounted for to the satisfaction of the officer in charge of the Custom-house, shall be charged with five times the ordinary duty thereon.
52.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction of the proper officer, or under the proper authority for their delivery,	ditto.	such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees.
53.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists or is concerned therein,	ditto.	such person shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES, &c.—(*continued.*)

Offences.	Section of this Act to which offence has reference.	Penalties.
54.—If any person contravenes any rule regarding the process of transhipment made by the Local Government, or any prohibition or order relating to transhipment notified by the Governor-General in Council, or transhipps goods not allowed to be transhipped,	130 134	such person shall be liable to a penalty not exceeding one thousand rupees; and any goods in respect of which such offence has been committed shall be liable to confiscation.
55.—If any goods be taken on board of any vessel at any Customs-port in contravention of Section 136,	136	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
56.—If any goods not specified in a duly passed shipping-bill are taken on board of any vessel, contrary to the provisions of Section 137,	137	the Master of such vessel shall be liable to a penalty not exceeding fifty rupees for every package of such goods.
57.—If any goods specified in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are re-landed; and notice of such short shipment or re-landing be not given as required by Section 140,	140	the owner of such goods shall be liable to a penalty not exceeding one hundred rupees, and such goods shall be liable to confiscation.
58.—If any goods duly shipped on board of any vessel be landed, except under Sections 141, 142 or 143, at any place other than that for which they have been cleared.	141	the Master of such vessel shall unless the landing be accounted for to the satisfaction of the Customs collector, be liable to a penalty not exceeding three times the value of such goods so landed.
59.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in Section 142,	*142	the Master of such vessel shall be liable to a penalty not exceeding the entire value of such goods unless the fact be accounted for to the satisfaction of the Customs-collector.

* See Act XII of 1891, Second Schedule.

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences	Section of this Act to which offence has reference.	Penalties.
60.—If any person, without a special pass from an officer of excise at the place of exportation, re-lands or attempts to re-land any spirits shipped for exportation,	154	such person shall be liable to a penalty not exceeding five hundred rupees.
61.—If any person wilfully contravenes any rule relating to spirits made under Section 155,	155	such person shall be liable to a penalty not exceeding five hundred rupees; and all such spirit shall be liable to confiscation.
62.—If, in contravention of any rules made under Section 157, any goods are taken into, or put out of, or carried in, any coasting vessel: or if any such rules be otherwise infringed,		the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
63.—If, contrary to any such rules, any coasting vessel touches at any foreign Port, or deviates from her voyage, unless forced by unavoidable circumstances; or if the Master of any such vessel which has touched at a foreign Port fails to declare the same in writing to the Customs-collector at the Customs-port, at which such vessel afterwards first arrives.	159	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees; and if any goods liable to export duty have been landed from, or any goods liable to import duty have been shipped in, such vessel at such Foreign Port, such Master shall further be liable to a penalty not exceeding three times the duty which would have been leviable on such goods if they had been exported from or imported at a Customs Port to or from foreign Port, as the case may be.

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
64.—If in the case of any coasting vessel any of the provisions of Section 158, 159 or 160 are not complied with	158, 159 & 160	the Master of such vessel shall in each such case be liable to a penalty not exceeding five hundred rupees.
65.—If the person executing any bond given under Section 161 fail to produce the certificate mentioned in the same section, or to show sufficient reason for its non-production.	161	such person shall be bound to pay a penalty equal to double the amount of Customs-duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a Foreign Port.
66.—If the Master of any coasting vessel violates any of the conditions under which a general pass for such vessel has been granted,	164	such Master shall be liable to a penalty not exceeding one thousand rupees.
67.—If any Master of a coasting vessel contravenes any of the provisions of Section 165,	165	such Master shall be liable to a penalty not exceeding five hundred rupees.
68.—If, upon examination, any package enter in the cargo-book required by Section 165, as containing dutiable goods, is found not to contain such goods; or if any package is found to contain dutiable goods not entered, or not entered as such, in such book,	165	such package, with its contents shall be liable to confiscation.
69.—If the Master of any coasting vessel required under section 165 to keep a cargo-book fails correctly to keep, or to cause to be kept, such book or to produce the same on demand, or	165	such Master shall be liable to a penalty not exceeding five hundred rupees.

OFFENCES AND PENALTIES, &c.—*(continued)*.

Offences.	Section of this Act to which offence has reference.	Penalties.
if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board,		
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise; or if any goods which have been brought coastwise are so unladen in any such Port; or if any goods are found on board of any coasting vessel without being entered in the manifest or cargo-book or both (as the case may be) of such vessel,	Chap. V.	such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees.
71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under Section 166,	166	such Master shall be liable to a penalty not exceeding two hundred rupees.
72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular; or counterfeits, falsifies or fraudulently alters or destroys any such document, or any seal, signature, initials or other mark, made or impressed by any officer of Customs in the transaction of any business relating to the Customs; or	General	such person shall, on conviction of any such offence before a Magistrate, be liable to a fine not exceeding one thousand rupees.

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
being required under this Act to produce any document, refuses or neglects to produce such document; or		
being required under this Act to answer any question put to him by an officer of Customs, does not truly answer such question,	General	such person shall, on conviction of any such offence before a Magistrate be liable to a fine not exceeding one thousand rupees.
73.—If any person on board of any vessel or boat in any Customs-port, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, declares that he has not, and if any such goods are, after such denial, found about his person, or in his possession,	General	such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of an offence relating to the Customs,	169	such officer shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees.
75.—If any officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act,	General	such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years or to fine, or to both.
76.—If any officer of Customs, or other person duly employed for the prevention of smuggling, practises, or attempts to prac-	Do.	such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term

OFFENCES AND PENALTIES, &c.—(*continued*).

Offences.	Section of this Act to which offence has reference.	Penalties.
tise, any fraud for the purpose of injuring the Customs-revenue, or abets or connives at any such fraud, or any attempt to practise any such fraud,		not exceeding two years, or to fine, or to both.
77.—If any Police-officer, whose duty it is, under Section 180, to send a written notice or cause goods to be conveyed to a Customs-house, neglects so to do,	180	such officer shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees.
78.—If any person intentionally obstructs any officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person,	General	such person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees or to both.
79.—If any officer of Customs except in the discharge in good faith of his duty as such officer, discloses any particulars learned by him in his official capacity in respect of any goods, or shows any samples delivered to him in such capacity, or if any officer of Customs except as permitted by this Act, parts with the possession of any samples delivered to him in his official capacity,	195	he shall be liable to a penalty not exceeding one thousand rupees.
80.—If any person, without the approval of the Customs-collector under Section 202, acts as an agent for the transaction of business as therein mentioned.	202	such person shall be liable to a penalty not exceeding five hundred rupees.

Nothing in the second column of the above schedule shall be deemed have the force of law.

Packages and contents included in confiscation of goods.

168. The confiscation of any goods under this Act includes any package in which they are found, and all the other contents thereof.

Also conveyances and animals used in removal.

Every vessel, cart or other means of conveyance and every horse or other animal, used in the removal of any goods liable to confiscation under this Act, shall in like manner be liable to confiscation.

Tackle, &c., included in confiscatiion of vessels.

The confiscation of any vessel under this Act includes her tackle, apparel and furniture.

CHAPTER XVII.

PROCEDURE RELATING TO OFFENCES, APPEALS, &C.

169. Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel in any Port in British India, or any person who has landed from any vessel :

Power to search on reasonable suspicion.

Provided that such officer has reason to believe that such person has dutiable or prohibted goods secreted about his person.

Persons may, before search, require to be taken before Magistrate or Customs-collector.

170. When any officer of Customs is about to search any person under the provisions of Section 169, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

If such requisition be made, the officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Customs-collector.

The Magistrate or Customs-collector before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person ; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

171. Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods any vessel, cart or other means of conveyance ; provided that he has reason to believe that smuggled goods are contained therein.

Power to stop vessels, carts, &c., and search for goods on reasonable suspicion.

172. Any Magistrate may, on application by a Customs-collector, stating his belief that dutiable or prohibited goods are secreted in any place within the local limits of the jurisdiction of such Magistrate, issue a warrant in search for such goods.

Power to issue search-warrants.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the law relating to Criminal Procedure.

Persons reasonably suspected may be arrested.

173. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, may be arrested in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

Persons arrested to be taken to nearest Magistrate or Customs-collector.

174. Every person arrested on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before the nearest Magistrate or Customs-collector.

Persons taken before Magistrate may be detained or admitted to bail.

175. When any such person is taken before a Magistrate, such Magistrate may, if he thinks fit, either commit him to gaol or order him to be kept in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the proper officers of Customs:

Provided that any person so arrested, committed or kept shall be released on giving security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints in this behalf.

Person escaping may be afterwards arrested.

176. If any person liable to be arrested under this Act, is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and taken before a Magistrate, to be dealt with as if he had been arrested at the time of committing such offence.

Persons in Her Majesty's Navy, when arrested, to be secured on board until warrant procured.

177. When any person employed on the crew of any of the ships of Her Majesty's Navy, Indian Marine or Marine Survey, is arrested under this Act, the arresting officer shall forthwith give notice thereof to the commanding officer of the ship, who shall thereupon place such person in security on board of such ship, until the arresting officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

The Magistrate shall grant such warrant upon complaint made to him by the arresting officer, stating the offence for which the person is detained.

Seizure of things liable to confiscation.

178. Any thing liable to confiscation under this Act may be seized in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

Things seized how dealt with.

179. All things seized on the ground that they are liable to confiscation under this Act shall, as soon as conveniently may be, be delivered into the care of any Customs-officer authorized to receive the same.

If there be no such officer at hand, all such things shall be carried to and deposited at the Custom-house nearest to the place of seizure.

If there be no Custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Chief Customs-Authority for the deposit of things so seized.

Procedure in respect of things seized on suspicion.

180. When any thing liable to confiscation under this Act are seized by any Police-officer on suspicion that they have been stolen, he may carry them to any Police-station or Court at which a complaint connected with the stealing or receiving of such things has been made, or an enquiry connected with such stealing or receiving is in progress, and there detain such things until the dismissal of such complaint or the conclusion of such enquiry or of any trial thence resulting.

In every such case the Police-officer seizing the things shall send written notice of their seizure and detention to the nearest Custom-house; and immediately after the dismissal of the complaint or the conclusion of the enquiry or trail, he shall cause such things to be conveyed to, and deposited at, the nearest Custom-house, to be there proceeded against according to law.

When seizure or arrest is made, reason in writing to be given.

181. When any thing is seized, or any person is arrested, under this Act, the officer or other person making such seizure or arrest shall, on demand of the person in charge of the thing so seized, or of the person so arrested, give him a statement in writing of the reason for such seizure or arrest.

Adjudication of confiscations and penalties.

182. In every case, except the cases mentioned in Section 167, Nos. 26, 72 and 74 to 76 both inclusive, in which under this Act, anything is liable to confiscation or to increased rates of duty.

or any person is liable to a penalty,

such confiscation, increased rate of duty or penalty may be adjudged—

(*a*) without limit, by a Deputy Commissioner or Deputy Collector of Customs, or a Customs-collector;

(*b*) up to confiscation of goods not exceeding two hundred and fifty rupees in value, and imposition of penalty or increased duty not exceeding one hundred rupees by an Assistant Commissioner or Assistant Collector of Customs;

(*c*) up to confiscation of goods not exceeding fifty rupees in value, and imposition of penalty or increased duty not exceeding ten rupees, by such other subordinate officers of Customs as the Local Government may, from time to time, empower in that behalf in virtue of their office.

Provided that the Local Government may, in the case of any officer performing the duties of a Customs-collector, limit his powers to those in-

dicated in Clause (*b*) or in Clause (*c*) of this section, and may confer on any officer by name, or in virtue of his office, the powers indicated in Clause (*a*), (*b*) or (*c*) of this section.

Option to pay fine in lieu of confiscation.

183. Whenever confiscation is authorized by this Act, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

On confiscation of vessel or goods, property to vest in Her Majesty.

184. When anything is confiscated under Section 182, such thing shall thereupon vest in Her Majesty.

The officer adjudging confiscation shall take and hold possession of the thing confiscated, and every officer of Police, on the requisition of such officer, shall assist him in taking and holding such possession.

Note.—See Board's Standing order, 76.

Levy of penalty for failure to bring-to.

185. If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under Section 17, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Customs-officer of any customs-port to which such vessel proceeds, or in which she is, and in the case of Aden, by such officer as the Governor of Bombay in Council appoints in this behalf.

A certificate of such departure or failure to bring-to when required, purporting to be signed by the Chief Customs-officer of the Port from which the vessel is stated to have so departed, shall be *prima facie* proof of the fact so certified.

Penalty under Act not to interfere with punishment under other law.

186. The award of any confiscation, penalty or increased rate of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Offences not specially provided for how tried.

187. All offences against this Act, other than those cognizable under Section 182 by officers of Customs, may be tried summarily by a Magistrate.

Appeal from Subordinate to Chief Customs-Authority.

188. Any person deeming himself aggrieved by any decision or order passed by an officer of Customs under this Act may, within three months from the date of such decision or order, appeal therefrom to the Chief Customs-Authority, or, in such cases as the Local Government directs, to any officer of Customs not inferior in rank to a Customs-collector and empowered in that behalf by name or in virtue of his office by the Local Government.

Such Authority or officer may thereupon make such further inquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against:

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty or rate of duty than as been adjudged against him in the original decision or order.

Every order passed in appeal under this Section shall, subject to the power of revision conferred by section 191, be final.

Deposit pending appeal, of duty demanded.

189. Where the decision or order appealed against relates to any duty or penalty leviable in respect of any goods, the owner of such goods, if desirous of appealing against such decision or order, shall, pending the appeal, deposit in the hands of the Customs-collector at the Port where the dispute arises the amount demanded by the officer passing such decision or order.

When delivery of such goods to the owner thereof is withheld merely by reason of such amount not being paid, the Customs-collector shall upon such deposit being made cause such goods to be delivered to such owner.

If upon any such appeal it is decided that the whole or any portion of such amount was not leviable in respect of such goods, the Customs-collector shall return such amount or portion (as the case may be) to the owner of such goods on demand by such owner.

Note.—See Board's Standing Order No. 57.

Power to remit penalty or confiscation.

190. If, upon consideration of circumstances under which any penalty, increased rate of duty or confiscation has been adjudged under this Act by an officer of Customs the Chief Customs-Authority is of opinion that such penalty, increased rate or confiscation ought to be remitted in whole or in part, or commuted, such Authority may remit the same or any portion thereof, or may, with the consent of the owner of any goods ordered to be confiscated, commute the order of confiscation to a penalty not exceeding the value of such goods.

Revision by Local Government.

191. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act by any officer of Customs or Chief Customs-Authority, and from which no appeal lies, reverse or modify such decision or order.

Goods on which penalty incurred not to be removed till payment.

192. When any fine, penalty or increased rate of duty is leviable under this Act, the goods in respect of which such fine, penalty or rate is leviable shall not be removed by the owner until such fine, penalty or rate is paid.

Other goods of person liable to fine or penalty may be detained.

If any person has become liable to any such fine, penalty or rate in respect of any goods, the Customs-collector may detain any other goods belonging to such person passing through the Custom-house until such fine, penalty or rate is paid.

193. When a penalty or increased rate of duty is adjudged against any person under this Act by any officer of Customs, such officer, if such penalty or increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other officer of customs.

Enforcement of payment of penalty.

When an officer of Customs who has adjudged a penalty or increased rate of duty against any person under this Act is unable to realize the unpaid amount thereof from such goods, such officer may notify in writing to any Magistrate within the local limits of whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty or increased rate of duty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if such penalty or increased rate had been a fine inflicted by himself.

BONDED WAREHOUSES ACT.

ACT NO. XXI. OF 1887.

An Act to provide for the establishment of Bonded Warehouses at places other than Customs Ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs ports; It is hereby enacted as follows:—

Title, construction and commencement.

1. (1) This Act may be called the inland Bonded Warehouses Act, 1887;

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878; and

(3) It shall come into force at once.

Inland bonded warehouses and law applicable thereto.

2. (1) Notwithstanding anything in the Sea Customs Act, 1878, the chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

(2) In reference to such a place and the warehouse appointed or licensed thereat, the provisions of the said Act with respect to the levy of customs duties on goods brought in bond from one customs port to another, and with respect to warehousing shall be construed as if the place were a Customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

REVENUE RECOVERY ACT.

ACT NO. I. OF 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH FEBRUARY 1890.

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent, and commencement.

1. (1) This Act may be called the Revenue Recovery Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

Definitions.

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

(1) "district" includes a presidency-town:

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(*a*) the name of the defaulter and such other particulars as may be necessary for his identification, and

(*b*) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the re-payment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

Property liable to sale under this Act.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue.

7. Nothing in the foregoing section shall be construed—

(*a*) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(*b*) to authorize the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

Recovery in British India of certain public demands arising beyond British India.

8. When this Act has been applied to any local area which is under the administration of the Governor-General in Council, but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

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

From

The Collector of

To

Collector of

Dated the of 18 :

The sum of Rs. is payable on account of by , son of , resident of , who is believed (to be at) (to have property consisting of at) in your district.

Subject to the provisions of the Revenue Recovery Act 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at .

A. B.,
Collector of

LAND IMPROVEMENT LOANS ACT.

ACT NO. XIX. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for the agricultural improvements; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Land Improvement Loans Act, 1883.

Local extent.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf.

Commencement.

Acts XXVI of 1871 and XXI of 1876 repealed.

2. (1) The Land Improvement Act, 1871, and Act XXI of 1876 (*an Act to amend the Land Improvement Act, 1871*) shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act regulation of notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector defined."

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. (1) Subject to such rules as may be made under section ten, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(*a*) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture ;

(*b*) the preparation of land for irrigation ;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is culturable ;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvement for the purposes of this Act.

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under Subsection (1), and make an order in writing either admitting or overruling it :

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan advanced in instalments, from the date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor-General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. (1) Subject to such rules as may be made under section ten, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land revenue due by him ;

(*b*) from his surety (if any)—as if they were arrears of land revenue due by him ;

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land ;

(*d*) out of the property comprised in the collateral security (if any) according to the procedure for the realization of land revenue by the sale of immoveable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section four with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under Sub section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by Sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act ;

(*b*) that the person mentioned had at the date of the order a right to make such an improvement ; and

(*c*) that the improvement is one benefiting the lands specified.

Liability of joint borrowers as among themselves.

9. When a lone is made under this Act to the members of a village community or to any other persons on such terms that all of them or 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 by each of them and by the 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.

Note.

Conclusive &c.—That is to say, no evidence shall be given to disprove that statement. As to the definition of 'conclusive proof,' see the Indian Evidence Act, No. I of 1872, section 4; and for instances of the same, sections 41, 112 and 113 of that Act.

Power to make rules.

10. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely:—

(*a*) the manner of making applications for loans;

(*b*) the officers by whom loans may be granted;

(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(*d*) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;

(*e*) the inspection of works for which loans have been granted;

(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;

(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(*h*) all other matters pertaining to the working of the Act.

Note.

Applications.—Applications for loans may be made orally or in writing to any revenue officer of or above the rank of Tahsildar. Personal attendance of the applicant is not necessary.

Loans.—Loans of sums exceeding Rs. 1,000 should be sanctioned by the Board of Revenue and of sums exceeding Rs. 5,000 by the Local Government. But no loan is to be granted without a local enquiry, and in smaller amounts than Rs. 100 except in certain cases.

Repayments — Repayments should *ordinarily* be made at the treasury of the taluk in which the land to be improved is situated; but Government may order repayment at any other treasury in the district. The instalments of loan *may be collected* with the last instalment of land revenue falling due each year.

Inspection of works.—The Collector of the district may make provision for the proper inspection of works in course of construction for which loans have been made, and for ascertaining and securing that such loans are duly applied.

Rules.—Rules made under this section are contained in the Appendix to Board's Standing Order, No. 112 (new edition.)

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land:

Provided as follows:—

(1) Where the improvement consists of the reclamation of waste land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor-General in Council.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

12. *Omitted*, as it only makes some amendment in Act III. of 1877.

AGRICULTURISTS' LOANS ACT.

ACT NO. XII. OF 1884.

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 extention 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.

Repeal of Act X of 1879 and sections 4 and 5 of Act XV of 1880.

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 the Bombay 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.

Power for Local Government to make rules.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council 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.

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

Note.

As to Rules under this section see Appendix to Board's Standing Order No. 112 (new edition). Various forms prescribed under this Act as well as under the proceeding one will also be found in the said Appendix.

Recovery of loans.

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.

Liability of Joint borrowers as among themselves.

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 the 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.

Note.—See section 9 of Act XIX of 1883 and the note under it.

INCOME TAX.

ACT NO. II. OF 1886.

PASSED ON THE 29TH JANUARY 1886.

An Act for imposing a tax on income derived from sources other than Agriculture.

WHEREAS it is expedient to impose a tax on income derived from sources other than agriculture; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Extent and Commencement.

1. (1) 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 who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor-General in Council in that behalf; and

(2) It shall come into force on the first day of April, 1886.

(3) [*Repealed by Act XII of 1891.*]

Repeal.

2. On and from the day on which this Act comes into force the enactments specified in the first schedule to this Act shall be repealed, except as to fees payable and other sums due under those enactments and the mode of recovering the same.

Definitions.

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

(1) "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 :

(2) "company" means an association carrying on business in British India, whose stock or funds is or are divided into shares and transferable whether the company is incorporated or not, and whether its principal place of business is situate in British India or not :

(3) "prescribed" means prescribed by the Governor-General in Council by notification in the *Gazette of India*, or by the Governor-General in Council or a Local Government by rules made under this Act :

(4) "salary" includes allowances, fees, commissions, perquisites, or profits received, in lieu of or in addition to a fixed salary, in respect of an office or employment of profit; but, subject to any rules which may be prescribed in this behalf, it does not include travelling, tentage, horse, or

sumptuary allowance or, any other allowance granted to meet specific expenditure:

(5) "income" means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf:

(6) "Magistrate" means a Presidency Magistrate or Magistrate of the first or second class:

(7) "person" includes a firm and a Hindu undivided family:

(8) "defaulter" includes a company or firm making default under this Act:

(9) "Collector" means the chief officer in charge of the revenue-administration of a district, and, in a presidency-town, any officer whom the Local Government, by notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence:

(10) "principal officer," used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(*a*) the secretary, treasurer, manager, or agent of the authority, company, body or association; or

(*b*) any person connected with the authority, company, body or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof; and

(11) "Port" means a part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX.

Income liable to the tax.

4. Subject to exceptions mentioned in the next following section, there shall be paid, in the year beginning with the first day of April 1886, and in each subsequent year, to the credit of the Government of India, or as the Governor-General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exception.

5. (1) Nothing in section 4 shall render liable to the tax—

(*a*) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such ; or

(*b*) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce ; or

(*c*) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (*a*), or by the cultivator, or the receiver of the rent-in-kind, of any land with respect to which or the produce whereof any operation mentioned in clause (*b*) is carried on.

Provided that the building is on or in the immediate vicinity of the land and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory or other out-building ; or

(*d*) any profits of a shipping company incorporated or registered out of British India and having its principal place of business out of India and its ships ordinarily engaged in sea-going traffic out of Indian waters ; or

(*e*) any income derived from property solely employed for religious or public charitable purposes ; or

(*f*) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax ; or

(*g*) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth, of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife ; or

(*h*) any interest on stock-notes ; or

(*i*) the salary of any officer, warrant-officer, non-commissioned officer or private of Her Majesty's Force or of Her Majesty's Indian Forces who is not in an employment which, according to the ordinary practice, is held

indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem ; or

(*j*) any person whose income from all sources is less than five hundred rupees per annum.

(2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.

Power to make exemptions.

6. The Governor-General in Council may, by notification in the *Gazette of India*, exempt from liability to the tax the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by a like notification, revoke the exemption.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

Mode of payment in case of Government-officials and pensioners.

7. In the case of a person receiving any salary, annuity, pension or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension or gratuity shall be reduced by the amount of the tax to which he is liable under Part I in respect thereof.

Mode of payment in case of servants and pensioners of local authorities.

8. (1) In the case of a person receiving any salary, annuity, pension or gratuity from a local authority, the tax to which he is liable under Part I shall, at the time of the payment to him of any of the salary, annuity, pension or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that officer within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that officer does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(3) If, when any payment is made, the tax is from any cause not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension or gratuity is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

Mode of payment in case of servants and pensioners of companies and private employers.

9. (1) The tax to which a person receiving any salary, annuity, pension or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private employer, is liable under Part I shall be payable by him

at the time when any portion of the salary, annuity, pension or gratuity is paid to him.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association or employer of the tax to which any person receiving any salary, annuity, pension or gratuity from the company, body, association or employer is liable under Part I.

Annual return by principal officer of company or association.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

(*a*) the name of every person who is receiving at the date of the return any salary, annuity or pension, or has received during the year ending on that date any gratuity, from the authority, company, body or association, as the case may be, and the address of every such person so far as it is known ; and

(*b*) the amount of the salary, annuity, pension or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

B.—Profits of Companies.

Annual statement of nett profits.

11. The principal officer in British India of every company shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

Power to require officers of companies to produce accounts.

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may caused to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector such of the accounts of the company as refer to the year to which the statement relates and as are in his possession or power.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at

which the company shall be assessed under Part II, and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C.—Interest on Securities.

Mode of payment of tax on interest on securities.

13. (1) The tax payable under Part III in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowerd to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that person does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D.—Other Sources of Income.

Ordinary Mode of Assessment and Collection.

Collector to determine persons chargeable.

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed.

Mode of making assessment.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

(2) In the case of a person for the first time becoming chargeable under Part IV within the year for which the assessment is to be made, or within the year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

List of incomes under two thousand rupees.

16. (1) the Collector shall in each year prepare a list of the persons chargeable under Part IV whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely:—

(*a*) his name, and the source or sources of the income in respect of which he is chargeable;

(*b*) the year or portion of the year for which the tax is to be paid;

(*c*) the place or places, district or districts, where the income accrues.

(*d*) the amount to be paid; and

(*e*) the place where and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto requiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

Notices to persons with incomes of two thousand rupees and upwards.

17. In the case of a person chargeable under Part IV whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him stating the particulars (*a*) to (*e*), both inclusive mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

Power to modify ordinary procedure in special cases.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

(*a*) authorizing or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under sec. 17 instead of or in addition to serving him with such a notice, and to serve a notice under section 17 on any person liable to be included in a list under section 16 instead of or in addition to including him in such a list;

(*b*) authorizing the Collector, in any specified town or place to cause a general notice to be published, inviting every person chargeable under, Part IV to deliver or cause to the delivered to the Collector, within a time specified in the notice, a return, in a prescribed form published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immedi-

ately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March;

(*c*) authorizing the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV, inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form accompanying the notice, of his income computed in the manner described in clause (*b*) of this sub-section.

(2) A return delivered under rules made under clause (*b*) or clause (*c*) of sub-section (1) must state the period during which the income has actually accrued; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other source of income.

(3) When a Collector authorized in that behalf by rules made under clause (*b*) or clause (*c*) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16 or serve a notice on him under section 17 until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

Time and place of payment.

19. Every amount specified as payable in a list or notice prepared or served under section 16 or section 17 shall be paid within the time, at the place, and to the person, mentioned in the list or notice.

Trustees, Agents, Managers, and Incapacitated Persons.

Trustees, guardians, and committees of incapacitated persons to be charged.

20. A person being the trustee, guardian, curator or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of the infant, married woman, lunatic or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot is chargeable under Part IV, be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

Non-residents to be charged in names of their agents.

21. Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV, shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

22. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the official Trustees shall be chargeable under Part IV in respect of all income officially in their possession or under their control which is liable to assessment under that Part.

Receivers, managers, Courts of Wards, Administrators-General and Official Trustees.

23. When a trustee, guardian, curator, committee or agent is, as such, assessed under Part IV,

Power to retain duties charged on trustees, &c.

or when a receiver or manager appointed as aforesaid a Court of Wards, an Administrator-General or an Official Trustee is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee or agent, or as receiver, manager, Court of Wards, Administrator-General or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Note.

There is nothing in the Act prohibiting the Collector from proceeding against *any* of the agents of the owner through whose hands the income passes, whether he be the original receiver of the income or the banker in whose hands it is deposited.—*Govt. Pleader's Opinion in Boards' Pros.*, 27th July, 1886, No. 1692.

Occupying Owners.

24. (1) Where a building is occupied by its owner, it shall be deemed a source of income within the meaning of this Act, and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably be expected to let, and, in the case of a dwelling house, may be expected to let unfurnished.

Provision for tax on occupying owners.

(2) "Owner", as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

CHAPTER IV.

REVISION OF ASSESSMENT.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV may apply by petition to the Collector to have the assessment reduced or cancelled.

Petition to Collector against assessment under Part IV.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied

that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

Hearing of petition.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon as he thinks fit.

Petition to Commissioner for revision.

27. Subject to the control of the Local Government, the Commissioner of the Division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26 shall, if the amount of the assessment to which the petition relates is two hundred and fifty rupees or upwards, and may in his discretion if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

Power to summon witnesses, &c.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure:

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

Tax when payable.

29. The tax chargeable under this Act shall be payable at the time appointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

Mode and time of recovery.

30. (1) In any case of default under this Act the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order than a sum not exceeding double that amount shall be recovered from the defaulter:

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the collector under sub-section (1) shall have the force of a decree of a civil court in a suit in which the government is the plaintiff and the defaulter is the defendant; and the order may be enforced in manner provided by the code of civil procedure for the enforcement of decrees for money; and the procedure under the said Code in respect following matters, namely,—

(*a*) sale in execution of decrees,

(*b*) arrest in execution of decrees for money,

(*c*) execution of decrees by imprisonment,

(*d*) claims to attached property, and

(*e*) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, Sections 223 and 224.

(4) The local Government may direct, with respect to any specified area, that the tax chargeable under this act shall be recovered therein with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recoverd.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

Agreements for composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II or Part IV, as the case may be, the collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition ; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II or Part IV, as the case may be.

Receipts.

Receipts and there contents.

32. When any money is paid under this Act to the Collector or is recovered thereunder by him, he shall give a receipt for the same, specifying—

(*a*) the date of payment or recovery of the money ;

(*b*) the amount paid or recovered ;

(*c*) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable ;

(*d*) the year or part of the year for which the tax was payable ;

(*e*) the place or places, district or districts, where the income accrues ;

(*f*) such other particulars, if any, as may be prescribed.

Amendment of assessment.

Amendment of assessment.

33. If a company or person assessed under Part II or Part IV ceases to carry on the trade or business in respect whereof the assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was made, or if any such company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made, then the company or person or its or his representative in interest may apply to the Collector during or within three months after the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Penalties.

Failure to make payments or deliver returns or statements.

34. (1) If a person fails—

(*a*) to deduct and pay any tax as required by section 8, sub-section (1), or section 13, sub-section (1), or

(*b*) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or

(*c*) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) The Commissioners of the Division may remit wholly or in part any fine imposed under this section.

False statement in declaration.

35. If a person makes a statement in a declaration mentioned in section 18 sub-section (2), which is false, and which he either knows or beleives to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

Prosecution to be at instance of Collector.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

Section 193 and 228 of Penal Code to apply to proceedings.

37. Any proceeding under section 12 or Chapter IV of this Act shall be deemed to be a "judicial proceeding" within the meaning of section 193 and 228 of the Indian Penal Code.

Power to make rules.

Power to make rules.

38. (1) The Governor-General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment, for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessment under Part IV, and, generally for carrying out the purposes of this Act, and may delicate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor-General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code.

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

Bar of suits in Civil Court.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Exercise of powers of Collector and commissioner.

40. All or any of the powers and duties conferred and imposed by this Act on a Collector or on a Commissioner of Division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf.

Obligation to furnish information respecting lodgers and employes.

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his behalf,—

(*a*) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings;

(*b*) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not; and

(*c*) the place of residence of such of those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed, and who desires to be assessed at that place.

Trustees and agents to furnish information as to beneficiaries and principals.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent to deliver or cause to be delivered a statement of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

Trustees, &c., to furnish information as to income.

43. An officer or person exercising all or any of the said powers may, by notice, require a trustee, guardian, curator, committee or agent, or a receiver or manager appointed by any Court in India, or a Court of Wards, Administrator-General or Official Trustee, to furnish such returns of income liable to assessment under Part IV as may be prescribed.

Obligation to furnish other information.

44. An officer or person exercising all or any of the said powers may, at the instance of any person respecting whose assessment or the amount thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

Sections 176 and 177 of Penal Code to apply to requisitions for information.

45. A person required to furnish any information under section 41, section 42, section 43 or section 44 shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

Service of notices.

46. (1) A notice under this Act may be served on the person therein named either by a prepaid letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866, or by the delivery or tender to him of a copy of the notice.

(2) If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter the service shall, whenever it may be practicable, be on the person named, in the notice, or, in the case of a firm, on some member thereof, or, in the

case of a Hindu undivided family, on the manager of the joint estate of the family.

(4) But when the person, member or manager cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving-officer shall fix the copy of the notice on the outer door of the house in which the person, firm or family therein named ordinarily resides or carries on business.

Power to declare principal place of business or residence.

47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject to a single Local Government, that Government may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) The powers given by this section may be delegated to, and exercised by, such officers as the Governor-General in Council or the Local Government, as the case may be, appoints in this behalf.

Saving in favor of payers of pandhari and capitation taxes.

48. Where a person is in respect of any period liable to the tax under this Act, he shall not in respect of that period be assessed to the pandhari-tax levied in the Central Provinces under Act XIV of 1867, or to the capitation-tax, or the land-rate in lieu thereof, levied in British Burma under the Burma land and Revenue Act, 1876.

Indemnity.

49. Every person deducting, retaining or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

Powers exercisable from time to time.

50. All powers conferred by, or conferable under, this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See Section 2.)

ACT OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. II of 1878...	The Nothern India License Act, 1878.	So much as has not been repealed.
Act No. VI of 1880.	The Indian License Acts Amendment Act 1880.	The whole.

ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. III of 1878.	The Madras License Act, 1878.	So much as has not been repealed.
Act No. III of 1880.	An Act to amend Madras Act III of 1878 as amended by Act VI of 1880.	The whole.

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. III of 1878.	The Bombay License Act, 1878.	So much as has not been repealed.

ACT OF THE LIEUTENANT GOVERNOR OF BENGAL IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. II of 1880.	The Bengal License Act, 1880.	The whole.

THE SECOND SCHEDULE.

SOURCES OF INCOME AND RATES OF TAX.

(*See Section 4.*)

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.
PART I. SALARIES AND PENSIONS.	
1. Any salary, annuity, pension or gratuity paid in British India to or on behalf of any person residing in British India or serving on Board a ship plying to or from British Indian ports, whether on account of himself or another person.	(*a*) If the income amounts to rupees 2,000 per annum, or rupees 166-10-8 per mensem, or upwards,—five pies in the rupee.
2. Any salary, annuity, pension or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty.	(*b*) If the income is less than rupees 2,000 per annum, or rupees 166-10-8 per mensem,—four pies in the rupee.
PART II. PROFITS OF COMPANIES.	
Profits of a Company.	Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.

THE SECOND SCHEDULE.—(*continued.*)

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.
PART III.	
INTEREST ON SECURITIES.	
Interest becoming due on or after the first day of April 1886, and payable in British India, on— (*a*) promissory notes, debentures, stock or other securities of the Government of India (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or (*b*) bonds or debentures charged by the Imperial Parliament on the revenues of India, or (c) debentures or other securities for money issued by or on behalf of a local authority or company.	Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.
PART IV.	
OTHER SOURCES OF INCOME.	
Any source of income not included in Part I, Part II or Part III of this schedule.	(*a*) If the annual income is assessed at— not less than Rs. 500 but less than Rs. 750 the tax shall be Rs. 10 " " 750 " " 1,000 " " 15 " " 1,000 " " 1,250 " " 20 " " 1,250 " " 1,500 " " 28 " " 1,500 " " 1,750 " " 35 " " 1,750 " " 2,000 " " 42 (*b*) If the annual income is assessed at Rs. 2,000 or upwards—five pies in the rupee on the income.

THE THIRD SCHEDULE.

FORM OF PETITION.

(See Section 25.)

TO THE COLLECTOR OF

The *Day of* 188 :

The Petition of A. B. of

SHOWETH as follows—

1.—Under Act No. II of 1886, your petitioner has been assessed in the sum of rupees for the year commencing the first day of April 188 .

2.—Your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the day of last were rupees , [as will appear from the documents of which a list is presented herewith.*]

3.—Such income and profits actually accrued and arose during a period of months and days [*here state the exact number of months and days in which the income and profits accrued and arose.*]

4.—During the said year your petitioner had no other income or profits.

your petitioner therefore prays that he may be assessed accordingly [*or* that he may be declared not to be chargeable under the said Act.]

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

* *These words are to be inserted if the petitioner relies on documents. The list, if the petitioner so wishes, may be presented in a sealed envelope.*

PUBLIC SERVANTS.

ACT NO. XXXVII. OF 1850.

PASSED ON THE 1ST NOVEMBER, 1850.

An Act for regulating Inquiries into the behaviour of Public Servants.

Preamble.

WHEREAS it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removeable without the sanction of Government and to make the same uniform throughout the territories under the Government of the East India Company ; It is enacted as follows :—

1. [*Repealed by Act XIV of* 1870.]

Articles of charge to be drawn out for public inquiry into conduct of certain public servants.

2. Whenever the Government shall be of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removeable from his office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct articles of charge, and shall order a formal and public inquiry to be made into the truth thereof.

Authorities to whom inquiry may be committed.

3. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons to be specially appointed by the Government, Commissioners for the purpose : notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

Notice to accused.

Conduct of Government prosecution.

4. When the Government shall think fit to conduct the prosecution it shall nominate some person to conduct the same on its behalf.

Charge by accuser to be written and verified. Penalty for false accusation.

5. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury : but this enactment shall not be construed to prevent the Government from instituting any enquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

Institution of inquiry by Government.

6. Where the imputation shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forth coming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

Security from accuser left by Government to prosecute.

7. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

Power of Government to abandon prosecution and to allow accuser to continue it.

8. The Commissioners shall have the same power of punishing contempts, and obstructions to their proceedings, as is given to Civil and Criminal Courts, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the zilla and city Judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the zilla or city Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

Powers of Commissioners.

Their protection.

Service of their process.

Powers of Court acting under commission.

9. All persons disobeying any lawfull process issued as aforesaid for the purposes of the commission shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

Penalty for disobedience to process.

10. A copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

Copy of charge and list to be furnished to accused.

11. At the beginning of the inquiry, the prosecutor shall exhibit the articles of charge to the commissioners, which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.

Procedure at beginning of inquiry.

Non-appearance of accused an admission of charge.

12. The prosecutor shall then be entitled to address the Commissioners in explanation of the articles of charge, and of the evidence by which they are to be proved: his address shall not be recorded.

Prosecutor's right of address.

13. The oral and documentary evidence for the prosecution shall then be exhibited. The witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter, without leave of the Commissioners who also may put such questions as they think fit.

Evidence for prosecution and examination of witnesses.

Re-examination by prosecutor.

14. If it shall appear necessary before the close of the case for the prosecution, the Commissioners may, in their discretion, allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

Power to admit or call for new evidence for prosecution.

Accused's right to adjournment.

15. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case, a copy shall be given at the same time to the prosecutor.

Defence of accused.

To be recorded only when written.

16. The evidence for the defence shall then be exhibited and the witnesses examined, who shall be liable to cross-examination, and re-examination and examination by the Commissioners according to the like rules as the witnesses for the prosecution.

Evidence for defence and examination of witnesses.

17. [*Repealed by Act XII of* 1876.]

18. The Commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

Notes of oral evidence.

19. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutors shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

Inquiry when closed with defence.

Prosecutor when entitled to reply and give evidence.

Accused not entitled to adjournment.

20. When the Commissioners shall be of opinion that the articles of charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, Commissioners shall record the application, and their reasons for refusing to comply with it.

Power to require amendment of charge and to adjourn.

Reasons for refusing adjournment to be recorded.

21. After the close of the inquiry, the Commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations, as they think fit on the whole case.

Report of Commissioner's proceedings.

22. The Government, on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional articles of charge to be framed in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges.

Power to call for further evidence or explanation.

Inquiry into additional articles of charge.

When special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

Reference of report of special Commissioners.

Final orders.

23. The word 'Government' as used in this Act means the Governor-General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay respectively, and the Lieutenant Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

Government defined.

24. Nothing in this Act shall be construed to repeal any Act Regulation in force for the suspension or dismissal of Principal and other Sadr Amins or of Deputy Magistrates or Deputy Collectors, but a Commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

Saving of enactments as to dismissal of certain officers.

Commission under Act for their trial.

25. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an enquiry under this Act.

Saving of power of removal without inquiry, under Act.

INDIAN PORTS ACT.

ACT NO. X. OF 1889.

(As amended by Act V of 1891.)

PASSED ON THE 29TH MARCH 1889.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, commencement and extend.

1. (1) This Act may be called the Indian Ports Act, 1889 ; and

(2) It shall come into force on the first day of April, 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(*a*) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875 ;

(*b*) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred extends this Act :

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto :

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

Note

Act XXII of 1855 relating to ports and port dues was repealed by Act XII of 1875, which again was repealed by this Act (see schedule).

Repeal.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act : and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

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

(1) " port" includes also any part of a river or channel in which this Act is for the time being in force :

(2) " Port Officer" is synonymous with Master Attendant :

(3) " vessel" includes anything made for the conveyance by water of human beings or of property :

(4) " master," when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a Pilot or Harbour Master) having for the time being the charge or control of the vessel :

(5) " Pilot" means a person for the time being authorized by the Local Government to pilot vessels :

(6) " ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships : and

(7) " Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

4. (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette,—

(*a*) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force ;

(*b*) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended ;

(*c*) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (*a*) or clause (*b*) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

Alteration of limits of ports.

5. (1) The Local Government may, with the previous sanction of the Governor-General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the Official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

Power to make port rules.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely :—

(*a*) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act ;*

(*b*) for regulating the berths, stations and anchorages to be occupied by vessels in any such port ;

(*c*) for striking the yards and top-masts, and for rigging in the booms and yards, of vessels in any such port, and for swinging or taking in davits, boats and other things projecting from such vessels ;

(*d*) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port ;

(*e*) for regulating vessels whilst taking in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged ;

(*f*) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works

* This clause has been substituted by Act V. of 1891, sec. 1.

in or adjoining to the same, and for marking out the spaces so to be kept free:

(*g*) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(*h*) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(*i*) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(*j*) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(*k*) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;

(*l*) for regulating the use of fires and lights within any such port;

(*m*) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;

(*n*) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(*o*) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; and

(*p*) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port.

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

CHAPTER III.

PORT OFFICIALS AND THEIR POWERS AND DUTIES.

Appointment of Conservator.

7. (1) The Local Government shall appoint some officer or body of persons to be Conservator of every port subject to this Act, and may suspend or remove such officer or body.

(2) Subject to any direction by the Local Government to the contrary,—

(*a*) in ports where there is a Port officer, the Port Officer shall be the Conservator;

(*b*) in ports where there is no Port Officer, but where there is a Harbour Master, the Harbour Master shall be the Conservator.

(3) Where the Harbour Master is not Conservator, the Harbour Master and his assistants shall be subordinate to, and subject to the control of, the Conservator.

(4) The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Power of Conservator to give and enforce directions for certain specified purposes.

8. (1) The Conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the Conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the Conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

Power to cut warps and ropes.

9. The Conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Removal of obstructions within limits of port.

10. (1) The Conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The Conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the Conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

Recovery of expenses of removal.

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realized the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

Removal of lawful obstructions.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator;

Fouling of Government moorings.

and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

Raising or removal of wreck impeding navigation within limits of port.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the Conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a Conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the Conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the Conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the Conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto :

Provided that the person makes his claim with three years from the date of the sale.

Power to board vessels and enter buildings.

15. (1) The Conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

Power to require crews to prevent or extinguish fire.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the Conservator or Port Officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred

rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the Conservator or Port Officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

Appointment and powers of Health Officer.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the Health Officer, and may suspend or remove from office any officer so appointed.

(2) A Health Officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely,—

(*a*) with respect to any vessel, the powers conferred on a Shipping Master by Act I of 1859, section 71;

(*b*) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on Board the vessel;

(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on Board the vessel;

(*d*) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

(*e*) power to require any person so questioned to make and subscribe a declaration of the truth of the statments made by him.

Indemnity to Government against act or default of Port Official or Pilot.

18. The Government shall not be responsible for any act or default of any Conservator, Port Officer or Harbour Master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any Pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

Injuring buoys, beacons and moorings.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

Wilfully loosening vessel from moorings.

20. If any person wifully and without lawful excuse lossens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Improperly discharging ballast.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the Conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the Conservator, or within any limits within with such act may be authorized by the Local Government.

Graving vessel within prohibited limits.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of theConservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

Boiling pitch on board vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, rosin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the Conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for

every such offence be punished with fine which may extend to two hundred rupees each.

Warping.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the Conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

Leaving out warp or hawser after sunset.

26. (1) A master of a vessel shall not cause of suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

Discharge of fire-arms in port.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

Penalty on master omitting to take order to extinguish fire.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the Conservator or the Port-officer, or any person acting under the authority of the Conservator or Port Officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Unauthorized person not to search for lost stores.

29. (1) No person, without the permission of the Conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

Removing stones or injuring shores of port prohibited.

30. (1) No person without the permission of the Conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port ;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor

or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the Conservator, and with the aid or under the inspection of such person, if any, as the Conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

Moving of vessels without Pilot or permission of Harbour Master.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master on board ;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master on board, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to native vessels when they are entering, leaving or being moved in the Port of Bombay.

(4) If any question arises as to whether any vessel is a native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

Provision of certain vessels with fire extinguishing aparatus.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The Master of such a vessel who, having been required by the Conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

Levy of port-dues.

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor-General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(*a*) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(*b*) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(*c*) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

Variation of port-dues by Local Government.

34. The Local Government may exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them :

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

Fees for pilotage and certain other services.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct.

Provided that, in the case of fees for pilotage, the previous sanction of the Governor-General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

Receipt, expenditure and account of port charges.

36 (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the Port Fund account, showing in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor-General in Council may determine, shall be charged in the Port Fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

(*a*) fines,

(*b*) proceeds of waifs, and

(*c*) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the Port Fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(*a*) the pay and allowances of all persons upon the establishment of the port,

(*b*) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(*c*) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(*d*) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and

(*e*) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the Port Fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a Port Fund account, any such balance may be temporarily in vested in such manner as of Local Government may direct.

Grouping of ports.

37. (1) The Local Government may direct for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the Port Fund account under sub-section (4) of that section shall form a common Port Fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the Port Fund account of each of those ports shall be kept separate from the Port Fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely,—

(*a*) The Local Government, in the exercise of its control over expenditure debitable to the common Port Fund account of the group, may, with the previous sanction of the Governor-General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor-General in Council may deem it necessary to issue with respect to such expenditure; and

(*b*) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

Receipts for port charges.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher

in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

Master to report arrival.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the Conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam-boats plying to and from the port of Chittagong.

Conservator may in certain cases ascertain draught and charge expense to master.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the Conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Ascertainment of tonnage of vessel liable to port dues.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed :—

(1) (*a*) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the Conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(*b*) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the Conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the Conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the Conservator on such an estimate as may seem to him to be just.

Distraint and sale on refusal to pay port-charges.

42. If the master of any vessel in respect of which any port dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

No port-clearance to be granted until port-charges are paid.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(*a*) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

(*b*) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

Port charges payable in one port recoverable at any other port.

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last fore-going section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

Penalty for evading payment of port-charges.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2) stating that the master has evaded such payment shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

Port-due on vessels in ballast.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Port-due on vessels not discharging or taking in cargo.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable :

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

Port-dues not chargeable on pleasure-yachts, or on vessels re-entering from stress of weather.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

Power to impose hospital port-dues.

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36 sub section (5), clause (*d*).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

Application and account of hospital port-dues.

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port

where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.

HOISTING SIGNALS.

Master to hoist number of vessel.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the Pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

Pilot to require master to hoist number

52. (1) Every Pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the Pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the Pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refused to proceed on his course until the requisition has been complied with.

Penalty on Pilot disobeying provisions of this chapter.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to any of the provisions of this chapter, shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a Pilot withdrawn.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

Penalty for disobedience to rules and orders of the Local Government.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this

Act, he shall be punished for every such offence with fine which may extend to one-hundred rupees.

Offences how triable, and penalties how recovered.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel, or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Costs of conviction.

56. (1) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

Ascertainment and recovery of expenses and damages payable under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

Costs of distress.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

Jurisdiction over offences beyond local limits of jurisdiction.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction to be quashed on merits only.

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Hoisting unlawful colors in port.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colors, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The Conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colors so unlawfully hoisted, carried or worn on board the same.

Foreign deserters.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month :

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

Application of sections 10 and 21.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

Application of Maulmain and Bassein port-dues.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pies per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

Validation of irregular contributions.

66. Any money contributed before the passing of this Act from any Port Fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

Grant of sites for sailors' institutes.

67. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution, for the health, recreation and temporal well-being of sailors.

Exercise of powers of Conservator by his assistants.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any Conservator may, subject to his control, be done or given by any Harbour Master or any deputy or assistant of such Conservator or Harbour Master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

Service of written notices of directions.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

Publication of orders of Local Government.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the Conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT

(See sections 1 and 33)

Part I. Bengal.

Name of port	Vessels chargeable	Rate of port-dues	Due when chargeable in respect of same vessel
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards	Not exceeding four annas per ton provided that in the case of *dhoni* and country vessels employed in the coasting trade the rate shall be one half the rate chargeable in respect of other vessels	Whenever the vessel enters the port except in the case of *dhonis* and country vessels employed in the coasting trade which shall not be chargeable with port dues at the same port more than once in sixty days
	Tug steamers and river steamers	Not exceeding four annas per ton	Once between the 1st January and the 30th June and once between the 1st July and the 31st December in each year
Chittagong	Sea going vessels of ten tons and upwards trading between Balluah boats	Not exceeding four annas and a half per ton	Whenever the vessel enters the port except in the case of mail steamers and coasting vessels which shall not be chargeable more than once in sixty days
	Tug steamer and river steamers	Do.	Once between the 1st January and the 30th June and once between the 1st July and the 31st December in each year
	Balluah boats	Not exceeding one anna per ton	Whenever the vessel enters the port
Cuttack Ports namely Pulse Point and Pooree	Sea going vessels of ten tons and upwards	Not exceeding four annas per ton	Whenever the vessel enters any one of the ports except in the case of mail steamers and steam vessels which shall not be chargeable more than once in sixty days
Balasore Ports namely Balasore, Churaman Patch hunpur Chanua Subarn arekha Dhamra (Chandbally) and Sirtha	Sea going vessels of ten tons and upwards	Not exceeding four annas per ton	Whenever the vessel enters any one of the ports except in the case of mail steamers and coasting vessels which shall not be chargeable more than once in sixty days

Part II—Madras Presidency.

Name of port	Vessels chargeable	Rate of port-dues	Due how often chargeable in respect of same vessels
1	2	3	4
Madras	See-going vessels of fifteen tons and upwards	*Foreign Vessels*	
		(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon calling at Madras, not exceeding four annas a ton	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again
		(*b*) In the case of any other foreign ship or steamer calling at Madras not exceeding four annas a ton	The due is payable on each entry into the port
		Coasting Vessels	
		(*c*) In the case of a coasting ship calling at Madras not exceeding one and a half annas a ton	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again
		(*d*) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton	The due is payable once in thirty days

Eastern Group

District	Port		
		Foreign Vessels	
Ganjam	1 Gopalpur 2 Sonnapuram 3 Baruva 4 Pundi 5 Calingapatam	(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port
Vizagapatam	6 Konada 7 Bimlipatam 8 Vizagapatam 9 Pudimadaka 10 Pentakota	(*b*) In the case of any other foreign ship or steamer calling at any one port in the Eastern group not exceeding three annas a ton	The due is payable on each entry into the port

Part II. Madras Presidency *continued*

Name of port			Vessels chargeable	Rate of port dues	Due however charge able in respect of some vessels
1			2	3	4
Eastern Coast contd					
District	Port			*Foreign Vessels*	
Godavari	11	Uppada	Sea-going vessels of fifteen tons and upwards	(*c*) In the case of a foreign ship or steamer engaged in trade with the Straits Settlements calling at more than one port in the Eastern group not exceeding four and a half annas	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group
	12	Coconada			
	13	Coringa			
	14	Bendamurlanka			
	15	Narsapur			
	16	Pedapalem			
Kistna	17	Masulipatam		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group not exceeding four and a half annas	The due is payable once for the voyage
	18	Penumudi			
	19	Mutupalli			
	20	Nagayalanka			
	21	Koppalem			
	22	Gangadipalem			
	23	Nizampatnam			
	24	Ippurupalem			
	25	Bodduvumpalem			
	26	Motupalle			
				Coasting Vessels	
Nellore	27	Kanuparti		(*e*) In the case of a coasting ship calling at any port not exceeding one and a half annas	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the dues at that port
	28	Kottapatnam			
	29	Ittunukkalu			
	30	Pakala			
	31	Kaveda			
	32	Ramayapatnam			
	33	Chennayyapalem			
	34	Tummalapenta		(*f*) In the case of a coasting steamer calling at more than one port in the East group not exceeding three annas four	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group
	35	Juvaladinne			
	36	Iskapalle			
	37	Pennapudi			
	38	Mupadu			
	39	Kistnapatam			
	40	Pumanji			
	41	Tupili			
	42	Dugarazpatnam			
	43	Pudi			
Chingleput†	44	Pulicat			
	45	Fnnore			
	46	Covelong			

Part II.—Madras Presidency—*continued.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessels.
1		2	3	4
Eastern Group cont.				
District.	Port.		*Foreign Vessels.*	
South Arcot.	47. Marakanam.	Sea-going vessels of fifteen tons and upwards.	(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	48. Cuddalore.			
	49. Porto Novo.			
Tanjore.	50. Tirumalavasal.		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton	The due is payable on each entry into the port.
	51. Kodiyampalayam.			
	52. Tranquebar.			
	53. Nagore.			
	54. Negapatam.			
	55. Velankani.			
	56. Topputurai.			
	57. Point Calimere		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one Port in the Eastern group, not exceeding four and a half annas a ton	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	58. Mutupet.			
	59. Adirampatnam.			
	60. Gopalapatnam.			
	61. Kattumavadi.			
	62. Krishnajipatnam.			
	63. Ammapatnam.			
	64. Kottaipatnam.			
	65. Sundarapandiyapatnam.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	66. Pasipatnam.			
	67 Damodarapatnam.			
Madura.	68. Tondi.		*Coasting Vessels.*	
	69. Nambitalai.			
	70. Pudupatnam.			
	71. Karangadu.		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	72. Tiruppalankudi.			
	73. Devipatnam.			
	74. Mudiyanputnam			
	75. Attankarai.			
	76. Emanangundu.			
	77. Pillaimadum.			
	78. Pamban.			
	79. Rameswaram.		(*f*) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkayapatnam.			
	83. Muttupettai.			
	84. Killakarai.			
	85. Ervadi.			

Part II. Madras Presidency *continued.*

Name of port.	Vessel-chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessels.
1	2	3	4
Eastern Group. contd.			
District. Port.		*Foreign Vessels.*	
Tinnevelly. 86. Valinokkam.	Sea-going vessels of fifteen tons and upward.	(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
87. Vaippar.		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton	The due is payable on each entry into the port
88. Tuticorin.		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group
89. Kavalpatnam.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton	The due is payable once for the voyage.
90. Kulasekharapatnam.		*Coasting Vessels*	
Western Group			
Malabar. 91. Cochin.		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
92. Arrupuram			
93. Kukkuyi			
94. Madayi.			
95 Attakuri			
96 Chavakad			
97. Velvanged			
98. Ponani			
99. Kuttayi.			
100. Parapanna.			
101 Tanur.			
102 Parpanangadi.			
103 Kadalvandi.			
104. Beypore.			
105. Molakkadava.			
106. Calicut.			
107. Pudiyangadi.			
108. Elatturu.			
109. Kappatta.			
110. Quilandi.			
111. Kollam.			
112. Kadalura			
113. Trikodi.			
114. Kottakkal.			
115. Badagara			
116. Muttankal.			
117. Chompayi.			
118. Kallayi.		(*f*) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group
119. Talayi.			
120. Tellicherry.			
121. Dharmapatnam.			
122. Ezhara.			
123. Cannanore			
124. Pudiyangadi.			

Part II.—Madras Presidency *continued*

District		Name of port	Vessels chargeable	Rate of port-due	Due how often chargeable in respect of same vessels
		Western Group			
Malabar	125	Palapatnam (Balapatnam)	Foreign vessels fifteen tons and upwards	(*a*) In the case of a foreign ship or steamer engaged in trade with the Straits Settlements, calling at any one port in the Western group not exceeding three annas a ton	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port
	126	Ettikulam			
	127	Kavvayi			
	128	Hosdrug		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Western group not exceeding three annas a ton	The due is payable on each entry into the port
	129	Baikal			
	130	Kasaragod			
	131	Kumbale			
	132	Manjesvara			
	133	Mangalore		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group
	134	Mulki			
	135	Padubidri			
South Canara	136	Trimala			
	137	Uchhila			
	138	Kaph			
	139	Udiyavara			
	140	Malpe			
	141	Barkur or Hangarakatta			
	142	Coondapoor			
	143	Nyakinakatte (Nayakkankottai)		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Western group not exceeding four and a half annas a ton	The due is payable once for the voyage
	144	Bandur			
	145	Sirur			
				Coasting Vessels	
				(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port
				(*f*) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group

Explanation to part II of the First Schedule

Explanation 1.—In this part of the schedule

(*a*) "ship" means a sailing vessel, and "steamer" a steam vessel;

(*b*) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south easternmost part of Burma, and 'coasting steamer' includes a coasting steam vessel having a general pass under section 164 of the Sea Customs Act, 1878;

(*c*) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port, every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

Part III Bombay Presidency.

Name of port	Vessels chargeable	Rate of port dues	Due how often chargeable in respect of same vessels
1	2	3	4
Bombay	Sailing vessels of ten tons and upwards (except fishing boats). Tug-steamers, ferry steamers and river steamers.	Not exceeding four annas per ton. Do.	Once in the year. Once between the 1st July and the 30th June, and once between the 1st July & 31st December in each year.
Northern Group of Ports			
1 Gogha 2 Dholera 3 Tankari 4 Dehegam 5 Dahej 6 Broach 7 Bhagwa 8 Surat 9 Matwad 10 Balsar 11 Umarsadi 12 Kolak	Sailing vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the same group which such port belongs and in addition of a half of such highest rate.	Once in thirty days at the same port provided that no coasting vessel or coasting steamer having paid port dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.

Part III. Bombay Presidency *continued.*

Name of port	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Northern Group of Ports—cont.			
13. Kalai ...	Sea-going vessels of ten tons and upwards (except fishing boats)	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
14. Maroli ...			
15. Umbargam ...			
16. Gholwad ...			
17. Dahanu Creek.			
18. Tarapur			
19. Olivara Navapur			
20. Satpati Creek.			
21. Mahim (Kelva)...			
22. Kelva			
23. Dantiora			
24. Arnala . .			
Southern Group of Ports.			
1 Bandra.. ...	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2 Vesava... ..			
3. Manori			
4. Utan ..			
5. Bassein ..			
6. Bhiwndi . .			
7. Kalyan . ..			
8. Thana .			
9. Trombay . .			
10. Panwel			
11. Karanja .			
12. Rewas .			
13. Nagothna ...			
14. Thal			
15. Alibag			
16. Revadanda ...			
17. Mandad .			
18. Bankot... ...			
19. Kelshi			
20. Harnai ...			
21. Anjanwel			
22. Borya			
23. Jaygad .. .			
24. Varavda .			
25. Ratnagiri ..			
26. Purangad ...			
27. Jaytapur ...			
28. Vijaydurg ...			
29. Devgad ...			
30 Achra			

Part III. Bombay Presidency—*continued*

Name of port	Vessels chargeable	Rate of port-dues	Due how often chargeable in respect of same vessel
1	2	3	4
Southern Group of Ports cont			
31 Malwan 32 Nivti 33 Vengurla 34 Redi 35 Terekhol 36 Karwar, including Baikhol 37 Chendiya 38 Ankola 39 Gangavli 40 Ladri 41 Kumpta 42 Honawar 43 Murdeshwar 44 Shiroli 45 Bhatkal	Sea-going vessels of ten tons and upwards (except fishing-boats)	Not exceeding three annas per ton provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate	Once in thirty days at the same port provided that no coasting vessel or coasting steamer, having paid port dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days
Karachi	Sea-going vessels of ten tons and upwards (except fishing-boats)	Not exceeding four annas per ton	Once in 3 months
	Tug-steamers and river-steamers	Do	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December in each year
Aden	Sea-going vessels of ten tons and upwards	Not exceeding three annas per ton	Once a month

Part IV Burma.

Rangoon	Sea-going vessels of ten tons and upwards	Not exceeding six annas per ton	Once in sixty days
	Tug-steamers and river steamers	Not exceeding four annas per ton	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year

Part IV.—Burma. *continued*

Name of port	Vessels chargeable	Rate of port-dues	Due how often chargeable in respect of same vessel
1	2	3	4
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons	Not exceeding four annas per ton	Once in sixty days
	Sea-going vessels of twenty-five tons and upwards	Not exceeding five annas six pies per ton	Do
Kyauk-Phyu	Sea going vessels of ten tons and upwards	Not exceeding four annas per ton	Do
Akyab	Do	Do	Do
Bassein	Sea going vessels of ten tons and upwards but less than twenty-five tons	Do	Do
	Sea going vessels of twenty-five tons and upwards	Not exceeding five annas six pies per ton	Do
Tavoy	Sea-going vessels of ten tons and upwards	Not exceeding four annas per ton	Do
Mergui	Do	Do	Do

THE SECOND SCHEDULE.

ENACTMENTS REPEALED

(*See section 2*)

Number and year	Subject or title	Extent of repeal
	Act of the Governor-General in Council	
XII of 1875	Indian Ports Act, 1875	So much as has not been repealed
IX of 1879	Burma Coast lights Act 1879	Section 17 and the preamble to that section
VII of 1880	Indian Merchant Shipping Act 1880	The first paragraph of section 72, from and inclusive of the word Chapter down to and inclusive of the word "repealed
IV of 1881	Madras Port-dues Act 1881	The whole
XVII of 1882	Indian Ports Act, 1882	The whole
V of 1883	Indian Merchant Shipping Act, 1883	Section 31
XI of 1883	Reduction of Port-dues in the Port of Bombay	The whole
IV of 1884	Indian Explosives Act, 1884	Section 3
V of 1885	Amendment of the Indian Ports Act 1875	The whole
	Act of the Governor of Fort St George in Council	
II of 1872	Madras Port Rules	The whole
	Act of the Lieutenant-Governor of Bengal in Council	
III of 1872	Calcutta Port Commissioners	The whole

ACT NO. V. OF 1891.

Passed on the 27th February 1891.

An Act to amend and supplement the Indian Ports Act, 1889.

WHEREAS it is expedient to amend and supplement the Indian Ports Act, 1889 ; It is hereby enacted as follows :—

1. Incorporated with Act X of 1889.

Saving of past rules respecting the moving of vessels in ports.

2. Any direction which, having been issued by a Local Government and published in an official Gazette, expressly purports, or may be reasonably held to have been intended, to be a rule under section 7, clause 8, of Act XXII of 1855, or under section 7, clause (*h*), of the Indian Ports Act, 1875, or under section 6, sub-section (1), clause (*h*), of the Indian Ports Act, 1889, or under any other law for the time being in force, with respect to the moving of vessels in any port which is at the commencement of this Act subject to the Indian Ports Act, 1889, shall, if the direction has not been cancelled by the Local Government by a notification in an official Gazette and could, after the commencement of this Act, be issued as a rule made under clause (*a*) of section 6, sub-section (1), of the Indian Ports Act, 1889, as amended by the foregoing section of this Act, be deemed to have been issued as a rule made under that clause.

Interpretation.

3. The expressions "port" and "vessel" in this Act have respectively the same meanings as in the Indian Ports Act, 1889.

ABKARRY ACT.

ACT NO. XVI. OF 1863.

(As amended by Acts XII of 1891 and VIII of 1894.)

Passed on the 10th March 1863.

*An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.**

WHEREAS it is expedient to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry; It is enacted as follows:—

Preamble.

1. Spirits intended to be used exclusively in arts and manufactures or in chemistry may be removed from any licensed distillery in any part of British India on payment of duty "calculated at ten" † per cent. on the value of the spirits;

Duty payable on removal of such spirits from distillery.

provided that no spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Proviso

2. The Board of Revenue, or other authority specially authorized in that behalf by the Local Government, shall prescribe from time to time, subject to the approval of the Local Government, rules.

Rules for ascertaining that spirits to be removed have been rendered unfit for human consumption, &c.

for ascertaining and determining that spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by section 1 of this Act;

for causing such spirits to be so rendered, if necessary, by its own officers, at the expense of the person who wishes to remove them; and

for fixing the value of the spirit on which the *ad valorem* duty shall be levied.

3. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

Penalty for breach of such rules.

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* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV. of 1874.

† See Act VIII of 1894, sec. 6. (Indian Tariff Act.)

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees ;

Penalty for attempting to render fit for human consumption, spirits removed under Act.

and the possessor of such spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees.

5. Any penalty imposed under either of the last two preceding sections may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

Penalty how levied.

6. In case any such penalty shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

In case of non-payment of penalty, offender may be detained pending return to distress-warrant.

7. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or

Imprisonment of offender in case of failure to recover penalty by distress.

in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued,

any such officer may by warrant under his hand commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months, when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

8. [*Repealed by Act XII of 1891.*]

9. In every case of conviction under section 3 or section 4 of this Act, the liquor or spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

Confiscation in cases of conviction under section 3 or 4.

INDIAN SALT ACT.

ACT NO. XII. OF 1882.

Passed on the 10th March 1882.

(As amended by Acts XIX of 1890 *and XII of* 1891.)

An Act for regulating the Duty on Salt, and for other purposes.

Preamble.

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and saltpetre, into, over and in British India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.
Commencement.

1. This Act may be called "The Indian Salt Act, 1882;" and it shall come into force at once.

Local extent.

This section, Sections two, seven and eight, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India;

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces and Ajmir and Mairwara, "to the Province of Sindh,"* to the Districts of the Patna Division, and to British territory under the jurisdiction of the Agent to the Governor-General in Central India;

Power to extend Act.

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended, by order of the Governor-General in Council published in the *Gazette of India*, to any part of British India other than the territories, *Province* and districts mentioned in the third paragraph of this section.

Repeal of enactments.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof; but all rules made, licenses and passes granted, prices and duties fixed, notifications published and powers conferred under any such enactment and now in force shall, so far as they are consistent with this Act be deemed to have been respectively made, granted, fixed, published and conferred hereunder.

* See sec. 1 of Act XX of 1884 (to exclude the Province of Sindh from the operation of the Indian Salt Act No. XII of 1882), the words 'to the Province of Sindh' in para 3 and the word 'Province' in para 4 above, should be repealed from such day as the Governor of Bombay in Council, by notification in the official Gazette fixes.

Interpretation-clause.

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

"the said territories :"

the expression "the said territories" means the territories to which the section of this Act, in which that expression occurs, for the time being extend ;

"Assistant Commissioner :"

"Assistant Commissioner" means an Assistant Commissioner of Northern India Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act ;

"Salt-revenue officer."

"Salt revenue officer" means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a Salt-revenue officer under this Act ;

"Saltpetre :"

"Saltpetre" includes rasi, sajji and all other substances manufactured from saline earth and khari-nun and every form of sulphate or carbonate of soda ; and

"Manufacture of salt :"

"manufacture of salt" includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

"Kohat salt."

"Kohat salt" means salt produced in the district of Kohat in the Punjab.*

Powers of Commissioner of Division by whom to be exercised.

4. The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor-General in Council may from time to time appoint in this behalf.

Commissioner of Northern India Salt-revenue.

5. At the head of the administration of the salt revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor-General in Council.

CHAPTER II

MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

Power of Governor-General in Council—

6. The Governor-General in Council may, from time to time, by rule—

to regulate manufacture and refining of salt and saltpetre ;

(*a*) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories ;

* This clause has been added by Act XIX of 1890, sec. 1.

(*b*) fix fees for the following licenses, not exceeding in the case of each such license the amount hereinafter mentioned :—

to fix fees for license.

	Rs.
License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining...	50
License to manufacture saltpetre...	2
License to manufacture sulphate of soda (*khari-nun*) by solar heat in evaporating pans	10
License to manufacture sulphate of soda (*khari-nun*) by artificial heat	2
License to manufacture other saline substances... ...	2

to regulate the collection of duties ;

(*c*) determine the manner, time and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said territories ;

(*d*) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area ;

to regulate possession of salt in vicinity of places where saltpetre is manufactured ;

to regulate possession of salt in vicinity of places where salt is manufactured.

(*e*) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area.

CHAPTER III.

DUTY AND PRICE OF SALT.

Power of Governor-General in Council—

7. The Governor-General in Council may from time to time by rule consistent with this Act—

to impose a duty on manufacture of salt ;

(*a*) impose a duty, not exceeding three rupees per maund of 82⅔ pounds Avoirdupois, on salt manufactured in, or imported by land into, any part of British India ;

to reduce or remit duties.

(*b*) reduce or remit any duty so imposed, and reimpose any duty so reduced or remitted;

to fix minimum price of salt excavated, &c., by Government.

(*c*) fix the minimum price at which salt excavated, manufactured or sold by or on behalf of the Government of India shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

Note.

See Government of India, Financial Notification, No. 1449, 10th March 1882, prescribing the duty to be paid on salt manufactured in, or imported by land into, any part of British India, except Burma and a portion of the Punjab.

Power of Local Government to fix minimum price of salt excavated, &c.

8. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured or sold by or on behalf of such Local Government shall be sold.

Note.

Revenue Notification, No. 198, 21st August 1882, fixes the price of salt sold at Tuticorin for export to Penang, exclusive of duty. Revenue Notification No. 243, 15th December 1882, fixes the price of salt sold at Kuttanguli in the Tinnevelly District, which is reduced by Revenue Notification No. 73, 5th March 1885.

CHAPTER IIIA.*

INDUS PREVENTIVE LINE.

Power to define zones and establish chains of posts.

8A. (1) The Governor-General in Council may, from time to time, by rule,—

(*a*) define a zone of country not exceeding fifteen miles in breadth,—

(i) along any portion of the river Indus and at such distance therefrom as he deems expedient, or

(ii) in any tract extending from that river to the western frontier of the Punjab,

(*b*) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and

(*c*) within such a zone establish a chain of posts extending along the zone.

(2) The establishment of a chain of posts under clause (*c*) of sub-section (1) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870.

Effect of defining a zone and establishing a chain of posts.

8B. When a zone has been defined and a chain of posts established under section 8A, the Governor-General in Council may from time to time, by rule—

(*a*) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and,

(*b*) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the

* Ch. IIIA. has been inserted by Act XIX of 1890, sec. 2.

passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain.

CHAPTER IV.

OFFENCES AGAINST THE SALT-REVENUE.

Penalties.

9. Whoever commits any of the following offences (namely):—

(*a*) does anything in contravention of this Act or of any rule made hereunder ;

(*b*) evades payment of any duty or charge payable under this Act or any such rule ; or

(*c*) attempts to commit, or abets within the meaning of the Indian Penal Code the commission of, any of the offences mentioned in Clauses (*a*) and (*b*) of this section,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both ;

and the convicting Magistrate, on the application of the Assistant Commissioner or Salt-revenue officer, may declare to be confiscated all works, materials and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

Punishment on second and subsequent convictions.

10. Any person convicted of an offence under Section nine, after having been previously convicted of an offence under that section or Section eleven of the Inland Customs Act, 1875, or under any enactment repealed by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under Section nine ;

and every such person shall, upon every subsequent conviction of an offence under Section nine, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

Note.

The Inland Customs Act referred to in this section is repealed by this Act.—See Schedule.

Charge by whom to be preferred.

11. A charge of an offence under Section nine* shall not be entertained except on the complaint of an Assistant Commissioner or other Salt-revenue officer not inferior in rank to a Sub-Inspector,

* See Act XII of 1891.

and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers.

Limitation.

All such offences shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

Jurisdiction.

12. All salt or saltpetre in respect of which any offence mentioned in Section nine has been committed, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Confiscation of articles in respect of which offence committed.

When the article seized exceeds five sers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any Salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated or impose such lessor penalty in lieu of confiscation as to him may seem fit.

If the article seized does not exceed five sers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five sers, and may also confiscate any vessel, package or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated, any vessel, package or covering in which such article is contained, and any animal or conveyance used in carrying it.

13. The Governor-General in Council may, from time to time, by rule, direct that any Salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in section nine has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such salt not exceeding the duty leviable thereon under Chapter III of this Act.

Power to levy additional duty as penalty.

The imposition of every such penalty shall be at once reported, if the salt, in respect of which an offence has been committed, exceeds five sers in weight, to the Commissioner of the Division in which such penalty is imposed, and, if such salt does not exceed five sers in weight, to the Assistant Commissioner,

and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

14. Any zemindar or other proprietor of land, and any agent of a zemindar or proprietor of land, who wilfully connives at any offence mentioned in Section nine, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Punishment for connivance at offences mentioned in Section nine.

CHAPTER V.

POWERS OF STOPPAGE, SEARCH, SEIZURE AND ARREST.

15. Any Salt-revenue officer empowered in this behalf by the Local Government may at any time enter and search any place in which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

Power to search places where article is manufactured under license.

16. Any Salt-revenue officer may stop and detain any person whom he has reason to believe to be liable to punishment under this Act;

Power to detain suspected person and to seize goods liable to confiscation.

and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in Section nine has been committed, or that any duty is payable, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.

17. Any Salt-revenue officer may arrest any person whom he has reason to believe to have committed any such offence as last aforesaid.

Power to arrest.

18. Whenever any Salt-revenue officer, not inferior in rank to a sub-Inspector, has reason to believe that salt or saltpetre is being unlawfully manufactured, refined or stored in an unlicensed place,

Procedure of officer having reason to believe unlawful manufacture.

such officer shall first record in writing (so far as may be practicable (*a*) the name, residence and calling of the informant (if any); (*b*) the locality and description of the house, boat or place where the officer believes that the salt or saltpetre is being so manufactured, refined or stored; (*c*) the name of the person by or for whom the salt or saltpetre is so manufactured, refined or stored; and (*d*) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined or stored;

and may then summon in writing the officer in charge of the Police-Station within whose jurisdiction the house, boat or place to be searched is situate to attend him;

and may then, after sunrise and before sunset (but always in the presence of an officer of Police not inferior in rank to a head constable), enter and search any house, boat or

Power to enter and search.

place in which there is reason to believe that salt or saltpetre is being so manufactured, refined or stored;

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all salt and saltpetre so manufactured, refined or stored, and all materials used in the manufacture or refinement of such salt or saltpetre;

and may also detain and search and, if he thinks proper, arrest the occupier of the said house, boat or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

Failure of Police-officer to attend.

19. Any officer in charge of a Police-station who, on application in writing made by a Salt-revenue officer to attend for any of the purposes specified in Section eighteen, refuses or fails within a reasonable time so to attend or to depute a subordinate officer, not inferior in rank to a head-constable, so to attend, shall for every such offence be punished with fine which may extend to five hundred rupees.

Report of arrest, seizure and search.

20. Whenever a Salt-revenue officer under the rank of Assistant Commissioner arrests under this Act any person,

or seizes any article as liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such article,

he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the Magistrate) within forty-eight hours next after such arrest, seizure or entry, make a full report of all the particulars of such arrest, seizure or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior, shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magis-

trate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of Police attending any search made under Section eighteen shall report the same to his official superior.

Procedure in respect of articles seized.

21. Whenever the Assistant Commissioner is informed of the seizure of any article exceeding five sers in weight as liable to confiscation under this Act, he shall, with all convenient despatch, report the circumstances of the case to the Commissioner of the Division in which such seizure is made, who may thereupon proceed under Section twelve.

If the article seized does not exceed five sers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

Procedure on detention of article subject to additional duty.

22. Any article in respect of which a penalty is imposed under Section thirteen may be detained pending the receipt of the order of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section :

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the Salt-revenue officer detaining the same, such article shall be at once released.

When an article is so detained it shall on the receipt of the said order be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section, and the Commissioner of the Division or Assistant Commissioner, as the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months, to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty the amount of which has been deposited under the second clause of this section is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit, or the sum so refundable, shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue otherwise directs.

Procedure in respect of person arrested.

23. Whenever the Assistant Commissioner is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of Section twenty) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

Officers required to assist Salt-revenue officers.

24. All officers of Police, and all officers of Government engaged in the collection of land-revenue, are hereby empowered and required to assist the Salt-revenue officers in the execution of this Act.

Vexatious search, seizure, &c., by Salt-revenue officer.

25. Any Salt-revenue officer who—

(*a*) without reasonable ground of suspicion searches or causes to be searched any house, boat or place,

(*b*) vexatiously and unnecessarily detains, searches or arrests any person;

(*c*) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;

(*d*) commits as such officer any other act to the injury of any person when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable, by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information and so causing a search to be made under this Act shall be punishable by a Magistrate exercising the same powers with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

A Salt-revenue-officer shall not be deemed to search or detain any person, or to seize the moveable property of any person, vexatiously and unnecessarily within the meaning of clause (*b*) or clause (*c*) of the first paragraph of this section if the search is authorized by any rule under clause (*b*) of section 8B, and the detention or seizure is such as is necessary for the purposes of such search.*

Power to regulate seizures and disposal of things seized.

26. The Governor-General in Council may from time to time make rules consistent with this Act to regulate the seizure, disposal and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

(*a*) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale;

(*b*) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rules, appear to claim such thing and tender the duty, penalties and charges (if any) due in respect thereof, it may

* This para was added by Act XIX of 1890, sec. 3.

be sold by public auction, and such duty, penalties and charges defrayed from the proceeds of the sale ;

(*c*) that the surplus-proceeds of a sale under clause (*a*) or clause (*b*) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

CHAPTER VI.

MISCELLANEOUS.

Power to prohibit import and transit of salt.

27. The Governor-General in Council may, from time to time, by rule, prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter.*

Further matters for which Governor-General in Council may make rules.

28. In addition to the rules which the Governor-General in Council is hereinbefore empowered to make, he may from time to time make rules consistent with this Act to regulate the following matters, namely :—

(*a*) the persons by whom, and the time, place and manner at or in which, any thing to be done under this Act shall be done ;

(*b*) the cases in which and the officers to whom, and the conditions subject to which, orders given by Salt-revenue officers under this Act shall be appealable ;

(*c*) the fee to be charged on account of any license, pass, certificate, dakhila, rawana or other such document issued under this Act ;

and generally to carry out the provisions herein contained.

Publication of rules.

29. All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law.

Power to confer powers of Assistant Commissioner and Salt-revenue officers.

30. Subject to the provisions herein contained, and to any rules for the time being in force made by the Governor-General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on Salt-revenue officers.

31. [*Repealed by Act XIX of 1890, sec. 5*]

* This para was added by Act. XIX of 1890 sec. 4.

SCHEDULE.

(*See Section* 2.)

ENACTMENTS REPEALED.

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Short title.	Extent of Repeal.
VIII of 1875 ...	The Inland Customs Act, 1875	The whole.
II of 1876 ...	The Burma Land and Revenue Act, 1876.	Section 39, Clause (*b*), and in clause (*c*) of the same section the words and letter "under Clause (*b*)."
XVIII of 1877 ...	The Salt Act, 1877 ...	The whole.

REGULATION.

Number and year.	Short title.	Extent of Repeal.
III of 1877 ...	The Ajmir Laws Regulation, 1877 ...	Sections 36 and 37.

ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short title.	Extent of Repeal.
VII of 1864 ...	The Salt Act, 1864 ...	Section nine.

OPIUM ACT.

ACT NO. I. OF 1878.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH JANUARY 1878.

(As amended by Act XII of 1891.)

An Act to amend the law relating to Opium.

Preamble.

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

Short title.

1. This Act may be called "The Opium Act, 1878 ;"

Local extent.

It shall extend to such local areas as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct ;

Commencement.

And it shall come into force in each of such areas on such day as the Governor-General in Council in like manner directs in this behalf.

Notes.

This Act came into force in Madras from the 1st July 1880 by virtue of Government of India Notification, Department of Finance and commerce, No. 962, dated 5th June 1880.—See Fort St. George Gazette supplement, 22nd June 1880.

The Notification of the Government of India, Foreign Department, No. 93—I. R. 21st November 1879, extends the Act Mysore.—Fort St. George Gazette, 2nd December 1879, P. 817.

Reference to Bombay Regulations XXI. of 1827 and XX. of 1830 in Act No. VII. of 1836.

2 * The reference made to Bombay Regulations XXI. of 1827 and XX. of 1830 in Act No. VII. of 1836 shall be read as if made to the corresponding sections of this Act.

Interpretation-clause.

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

"Opium."

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy :

"Magistrate."

"Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class :

* The first and second paragraphs have been repealed by Act XII. of 1891, sch. 1.

"Import" means to bring into the territories administered by any Local Government from sea, or from foreign territory, or from a territory administered by any other Local Government :

"Import."

"Export" means to take out of the territories administered by any Local Government to sea, or to any foreign territory, or to any territory administered by another Local Government :

"Export."

"Transport" means to remove from one place to another within the territories administered by the same Local Government.

"Transport."

Note.

By Judicial Notification, 9th October, 1880. second-class Magistrate are empowered to try cases under this Act.—Fort St. George Gazette 12th October 1880, p. 472.

4. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by rules framed under this Act or under any such enactment, no one shall—

Prohibition of poppy cultivation and possession, &c., of opium.

(*a*) cultivate the poppy ;

(*b*) manufacture opium ;

(*c*) possess opium ;

(*d*) transport opium ;

(*e*) import or export opium ; or

(*f*) sell opium.

5. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local Gazette, make rules, consistent with this Act, to permit, absolutely or subject to the payment of duty or to any other conditions, and to regulate within the whole or any specified part of the territories administered by such Government, all or any of the following matters :—

Power to make rules to permit such matters.

(*a*) the cultivation of the poppy ;

(*b*) the manufacture of opium ;

(*c*) the possession of opium ;

(*d*) the transport of opium ;

(*e*) the importation or exportation of opium ; and

(*f*) the sale of opium, and the form of duties leviable on the sale of opium by retail :

Provided that no duty shall be levied under any such rule on any opium imported, and on which a duty is imposed by or under the law relating to sea-customs* for the time being in force or under section 6.

* See Act VIII. of 1878, Ch. 5.

Note.

As to Rules permitting the cultivation of poppy and regulating the manufacture of opium, &c., see Revenue Notification, Fort St. George supplement, 22nd June 1880. Also G. Os. Nos. 448 and 655 dated 16th April and 25th May, respectively, of 1883.

Duty on opium imported by land.

6. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, impose such duty as he thinks fit on opium or on any kind of opium imported by land into British India or into any specified part thereof, and may alter or abolish any duty so imposed.

Notes.

As to duty on each chest of Malwa opium imported into the Madras Presidency, see Government of India Notification, Department of Finance and commerce, No. 963, 5th June 1880, published in the Fort St. George Gazette supplement of 22nd June 1880.

As to duty on each chest of Malwa opium imported into Mysore, see Government of India Foreign Department Notification, No. 94.—I. R., 21st November 1879 at p. 817 of the Fort St. George Gazette of 2nd December 1879.

Warehousing opium.

7. The Governor-General in Council may, by order notified in the *Gazette of India*,—

(*a*) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories administered by such Local Government, and

(*b*) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official Gazette,—

(*c*) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories administered by such Government, or into any specified part thereof, or intended to be exported thence, and

(*d*) cancel any such declaration.

An order under clause (*b*) shall cancel all previous declarations under clause (*c*) of this section relating to places in the territories to which such order refers.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules relating to warehouses.

8. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local Gazette, make rules, consistent with this Act, to regulate the safe custody of opium warehoused under section 7; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Penalty for illegal cultivation of poppy, &c.

9. Any person who, in contravention of this Act, or of rules made an notified under section 5 or section 8,—

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) transports opium, or

(*e*) imports or exports opium, or

(*f*) sells opium, or

(*g*) omits to warehouse opium, or removes or does any act in respect of warehoused opium,

and any person who otherwise contravenes any such rule,

shall, on conviction before a Magistrate, be punished, for each such offence, with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption in prosecution under section 9.

10. In prosecutions under section 9, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation of opium.

11. In any case in which an offence under section 9 has been committed—

(*a*) the poppy so cultivated;

(*b*) the opium in respect of which any offence under the same section has been committed;

(*c*) where, in the case of an offence under clause (*d*) or (*e*) of the same section, the offender is transporting, importing, or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import, or export, as the case may be, the whole of the opium which he is transporting, importing, or exporting;

(*d*) where, in the case of an offence under clause (*f*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium,

shall be liable to confiscation.

The vessels, packages, and coverings, in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall like wise be liable to confiscation.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Order of confiscation by whom to be made.

Whenever confiscation is authorized by this Act, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

13. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time, by notification in the local Gazette, make rules, consistent with this Act, to regulate—

Power to make rules regarding—

disposal of things confiscated,

(*a*) the disposal of all things confiscated under this Act; and

and rewards.

(*b*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Note.

As to Rules regarding the disposal of things confiscated, see Rev. Notification, Fort St. George Gazette Supplement of 22nd June 1880; also Rev. Notification No. 21st, Fort St. George Gazette, 13th April 1881, p. 198: also Revenue G. Os. 5th Dec. 1881 and 16th Jan. 1882 Nos. 1663 and 54.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, who may, in right of his office, be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept, or concealed in any building, vessel, or enclosed place, may, between sunrise and sunset,—

Power to enter, arrest, and seize, on information that opium is unlawfully kept in any enclosed place.

(*a*) enter into any such building, vessel, or place;

(*b*) in case of resistance, break open any door, and remove any other obstacle to such entry;

(*c*) seize such opium, and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to con-

fiscation under section 11 or any other law for the time being in force relating to opium ; and

(*d*) detain and search, and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Notes.

G. O., 25th August 1880, No. 2086, Judicial gives power to certain officers to enter : arrest and seize.

See Revenue Notification No. 65, 24th January 1887, investing Divisional Officers in the Districts of Ganjam, Vizagapatam and Godavery with the powers of a Collector in regard to countersigning licenses granted by farmers under Rule 36.

Power to seize opium in open places.

15. Any officer of any of the said departments may—

(*a*) seize, in any open place or in transit, any opium or other thing, which he has reason to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium,

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search, and arrest.

16. All searches under section 14 or section 15 shall be made in accordance with the provisions of the Code of Criminal Procedure.*

Searches how made.

17. The officers of the several departments mentioned in section 14 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, or place,

Vexatious entries, searches, seizures, and arrests.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches, or arrests any person,

shall, for every such offence, be punished with fine not exceeding five-hundred rupees.

19. The Collector of the District, Deputy Commissioner, or other officer authorized by the Local Government in this behalf, either personally or in right of his

Issue of warrants.

* See Act X. of 1882, sec. 3.

office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.*

Disposal of person arrested or thing seized.

20. Every person arrested, and thing seized, under section 14 or section 15, shall be forwarded without delay to the officer in charge of the nearest police-station; and every person arrested and thing seized under section 19 shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Report of arrests and seizures.

21. Whenever any officer makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Procedure in case of illegal poppy-cultivation.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may, in right of his office, be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII. of 1857 (*An Act consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*), or any part thereof, is in force, nothing in this section shall apply to such cultivation.

Recovery of arrears of fees, duties, &c.

23. Any arrear of any fee or duty imposed under this Act or any rule made hereunder,

and any arrear due from any farmer of opium-revenue,

* See Act X. of 1882, sec. 3.

The District Magistrate (whose Court is the proper tribunal for the trial of an offence relating to the smuggling of opium) has, under sec. 21 of the Code of Criminal Procedure, power to inflict any fine provided by Reg. XXI. of 1827 for such offence, even though the fine may exceed Rs. 1,000. The arrest of a person accused of the above offence, without a warrant is generally illegal, except under the circumstances specified in sec. 108 of the Code of Criminal Procedure.—9 Bom. H. C. R., 343.

Where a person sells liquor in contravention of, and under colour of, a license which stands, not in his own name, but in that of the person for whom he is the recognized agent, he cannot be allowed to evade the provisions of sec. 43 of Act XXI. of 1856 by setting up that it is not a license to himself.—19 W. R, 34.

Where opium was found in the possession of a person who was a servant of the accused, and who alleged that he obtained it from the wife of the accused, and that the wife had purchased it from an opium cultivator, it was held that the accused could not be convicted under sec. 53 of Act XXI. of 1856, as it had not been shown that the purchase by his wife was authorized by the accused, and, therefore, her possession of the opium or that of the servant could not be considered the possession of the accused.—20 W. R., 54.

Act XXI of 1859 (the Opium Act) has not xeen repealed, so far as it relates to the Lower Provinces of Bengal by Act X. of 1871.—22 W. R, 31.

On a conviction, under Act XXI. of 1856, of having in possession opium not supplied from the Government stores, the Magistrate tried the case summarily under sec. 222, Code of Criminal Procedure, and passed a sentence of fine, or imprisonment, and confiscation of the opium. *Held* that the case could not be tried summarily, the additional sentence of confiscation not coming under sec. 148, Code of Criminal Procedure.—23 W. R., 33.

Where a sale of an excess quantity of ganja took place, and the man effecting the sale pleaded that he was only a servant, while the owner contended that he did not conduct the shop, and gave no authority to his servant to sell ganja in excess of his license, *held* that the owner of the shop was responsible for the offence committed, and liable to the fine which had been imposed on him.—25 W. R., 42.

Contrary to the conditions of his master's opium-license, the servant sold a preparation of opium between sunset and sunrise. The master was not present, and there was no evidence to show that he had directly or otherwise authorized the illegal sale. *Held* that the master was not liable to a penalty under sec. 9 of Act I. of 1878.—11 C. L. R., 464.

A, who held a certificate under Act VII. of 1878 (the Excise Act) from the Deputy Commissioner of Police that he was entitled to a license from the Collector to sell muddut upon the conditions set forth therein, obtained such a license from the Collector under Act I of. 1878 (the Opium Act) upon the conditions mentioned. No license was granted by the Deputy Commissioner of Police, it not being usual for licenses to be granted by the Police, where a license had been issued by the Collector upon a certificate from the Deputy Commissioner. A was charged under sec. 40 of Act IV. of 1866 (as amended by Act II. (B. C.) of 1876) with a breach of the conditions not, of the license, but of the certificate, the act complained of having been committed by A's servant. *Held* that the sale of muddut is regulated by Act I. of 1878, and, therefore, no license from the Commissioner

of Police for the sale of muddut was requisite under secs. 36 and 37 of Act IV. of 1866. *Held*, further, that sec. 39 of Act IV. of 1866 applied to the case, and that, under that section, a license from the Deputy Commissioner of Police was necessarily for the sale of muddut, and accordingly that A, although he had obtained a certificate from the Deputy Commissioner of Police, entitling him to a license under Act I. of 1878, was liable to punishment by reason of his not having, under sec. 39 of Act IV. of 1866, also obtained a certificate from the Deputy Commissioner. See *In re* Bhoobun Chunder Shaw (11 C. L. R., 464).—13 C. L. R., 336.

One having a license for the possession of opium as a medical practitioner, limited to eight pollums (one seer) of opium, sent his servant to buy from a licensed dealer at Sholavaram, and bring to Madras, four pollums (half seer) of opium. He was convicted of the offence of transporting opium without a license. *Held* the conviction was right.—I. L. R., 13 Madr. 191.

INTERPRETATION.

ACT NO. I. OF 1868.*

RECEIVED THE G.-G.'s ASSENT ON THE 3RD JANUARY 1868.

An Act for shortening the language used in Acts of the Governor-General of India in Council and for other purposes.

Preamble.

WHEREAS it is expedient to shorten the language used in Acts made by the Governor-General of India in Council, and to make certain provisions relating to such Acts; It is hereby enacted as follows :—

Short title.

1. This Act may be cited as "The General Clauses' Act, 1868."

Interpretation clause.

2. In this Act and in all Acts made by the Governor-General of India in Council after this Act shall have come into operation, unless there be something repugnant in the subject or context,—

(1.) Words importing the masculine gender shall be taken to include females;

(2.) Words in the singular shall include the plural, and *vice versa*;

(3.) "Person" shall include any company, or association, or body of individuals, whether incorporated or not;

(4.) "Year" and "month" shall respectively mean a year and month reckoned according to the British calendar;

(5.) "Immoveable property" shall include land; benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

Note.

The obligee of a bond, dated the 29th October, 1869, sued to recover the amount due thereunder from the property hypothecated therein. By the terms of the bond the obligor agreed to pay the sum of Rs. 75 with interest at two rupees per cent. per mensem on the 12th May, 1873. The amount thus secured exceed Rs. 200. The property mortgaged was the tenant holding of the obligor. *Held* that the interest of a tenant in his holding was right or interest to or immoveable property; that consequently such bond, which affirmed as a security a right of which the value, estimated by the amount secured, exceed Rs. 100, ought to have been registered; that being unregistered it could not affect the "immoveable property comprised therein," or be "received in evidence of any transaction affecting" the same; and that the suit brought on the basis of such bond, for the enforcement of the lien, must, in the absence of the bond, fail.— I. L. R., 3 Al. 422.

(6) "Immoveable property" shall mean property of every description, except immoveable property;

* See *Gazette of India*, 22nd October 1881, Part I., page 504.

(7) "Her Majesty" shall include Her heirs and successors to the Crown;

(8.) "British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*);*

(9.) "Government of India" shall denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively;

(10.) "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner;

(11.) "High Court" shall mean the highest Civil Court of appeal in such part;

(12.) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(13.) "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure;

(14.) "Barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

(15.) "Section" shall denote a section of the Act in which the word occurs;

(16.) "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property;

(17.) "Oath," "swear," and "affidavit," shall include affirmation, declaration, affirming, and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

(18.) "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

(19.) And in the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father.

3. In all Acts made by the Governor-General of India in Council after this Act shall have come into operation—

Revival of repealed enactments.

(1.) for the purpose of reviving, either wholly or partially, a Statute, Act, or Regulation wholly or partially† repealed, it shall be necessary expressly to state such purpose;

* In cl. 8, the words, "other than the Settlement of Prince of Wale's Island, Singapore, and Malacca," have here been omitted, having been repealed by Act XII of 1891.

† The words "wholly or partially" are to be deemed to have been inserted hear from the Commencement of the Act.—See Act I. of 1887, sec. 9.

(2.) for the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from;"

Commencement of time.

(3.) for the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to;"

Termination of time.

(4.) for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

Official chiefs and subordinates.

(5.) for the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and

Successors.

(6.) for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

Substitution of functionaries.

Notes.

For the purpose of reviving wholly or partially a statute, Act or Regulation repealed, it shall be necessary expressly to state such purpose.

The mere repealing of the subsequent enactment (repealing the former) does not *per se* revive the repealed enactment.—7 M. H. C. R., Ap. 8.

Suit to recover principal and interest due on a registered bond executed by defendants in favor of the plaintiff's father. The date of the bond was 20th June 1870; the principal sum was payable on 20th June 1872; the plaintiff's father died in 1875; the defendants made acknowledgements of their liability in June 1877; the plaintiff came of age in 1885, and this suit was brought on 11th August 1887:—*Held*, the suit was not barred by limitation.—1. L. R., 13 Madr. 135.

The mortgagor of an estate gave to the mortgagee, subsequently to the date of the mortgage, two successive money bonds in each of which it was stipulated that, if the amount were not paid on the due date, it should take priority of the amount due under the mortgage, and that redemption of the mortgage should not be claimed until the bond had been satisfied. The assignee of the equity of redemption sued for possession of the estate on payment merely of the mortgage money. *Held*, that the two subsequent bonds did not create a further charge on the mortgaged premises, although they would prevent the original mortgagor from redeeming without paying their amounts. *Held*, also, that section 12 of Regulation V of 1827 is not in force. That section was repealed by Act XXVIII of 1855, sec 1, although the latter section was repealed by Act XIV of 1870, the former was not restored, there being no express provision in Act XIV of 1870 to revive it, as required by the General Clauses Act I of 1868, section 3. The question of the period

for which interest was to be allowed was therefore, to be determined by Act XV of 1877, the Act in force at the date of the institution of this suit, article 132 of which applied : but as the rule of damdupat is not affected by Limitation Acts, the defendants could not be allowed, as interest, more than the amount of the principal on which it was to be paid.—9 Bom. 233.

Duty may be taken *pro-rata*.

4. Whenever, by any Act or Regulation now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure, or value, of any goods or merchandize, a like duty shall be leviable according to the same rate on any greater or less quantity.

Recovery of fines.

5. The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code and of sections 386, 387 and 389* of the Code of Criminal Procedure, shall apply to all fines imposed under the authority of any Act hereafter to be passed, unless such Act shall contain an express provision to the contrary.

Note.

Sec. 5 of the General Clauses Act, 1868, does not authorize a Cantonment Magistrate to award rigorous imprisonment in default of payment of a fine imposed under Act I of 1866. (Madras.)—I. L. R., 8 Madr. 350.

Matters done under enactment before its repeal, unaffected.

6. The repeal of any statute, Act, or Regulation, shall not affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, before the repealing Act shall have come into operation.

Notes.

An offence committed while an Act or Regulation was in force may be tried under that enactment, notwithstanding its repeal by subsequent enactment.—7 M. H. C. R., App. 8.

The Limitation Act (IX of 1871) comes into operation from 1st July 1871 with respect to appeals and applications, and is not controlled by the General Clauses' Act (I of 1868), sec. 6. An application for execution of a decree being made on the 27th September 1871, *held* not to be a suit within the meaning of sec. 1, cl. *a* of Act IX of 1871, and therefore barred under sch. ii., art. 67 of that Act, as having been made more than three years after the date of the last preceding application. The application of the 27th September 1871 cannot be regarded as a mere continuation of a proceeding pending *viz.*, of the last preceding application of the 7th January 1868, within the meaning of Act I of 1868, sec. 6, at the time when the new Limitation Act came into operation, though the order on the latter application having been made on the 31st March 1870 would possibly have been a sufficient proceeding within sec. 20 of Act XIV of 1859 to constitute a fresh terminus whence time might run under that Act.—11 Bom. H. C. R., (A. C.) 111.

The prisoner was found guilty under the repealed Regulation 4 of 1797 for murder committed in 1861 before the Penal Code came into operation. *Held* by (F. B.) that the conviction was illegal, section 6 of Act I of 1868 not being applicable.—I. L. R., 2 Cal. 225.

* See now sec. 386 *et seq.*, Act X of 1882.

A registered deed of sale, the registration of which was compulsory, does not take effect against a prior unregistered deed of sale of the same property, the registration of which was optional. By sec. 6 of the General Clauses Act a suit is to be Governed by the Registration law in force at the institution of the suit, and not by that which may be in force when it comes on for hearing.—4 Cal. 536.

The words "any proceedings commenced before the repealing Act shall have come into operation" in sec. 6 of the General Clauses Act (1 of 1868) include an appeal against a decree made before the passing of the repealing Act, as such appeal must be considered a proceeding in the original suit. In a suit between landlord and tenant a decree was passed by the lower Appellate Court on the 28th of July 1885. Under the provisions of the Act then in force, namely, Beng. Act VIII of 1869, sec 102, a second appeal to the High Court was prohibited. That Act was repealed by Act VIII of 1885, which came into force on the 1st November 1885, this latter Act allowing an appeal to the High Court in suits similar to the one in question. A second appeal to the High Court in that suit was filed on the 18th of November 1885. *Held*, that no appeal lay.—13 Cal. 86.

The word "proceedings" in sec. 6 of Act I of 1868, as applied to a suit, means the suit as an entirety, that is, down to the final decree. A second appeal, therefore, to the High Court, on a question of the amount due as rent, will not lie when the suit was instituted previous to the passing of Act VIII of 1885, although the judgment in the suit was delivered, and the first appeal therefrom heard, subsequently to the passing of that Act. Hurrosundari Debi *v* Bhojohari Das Manji, I. L. R., 13 Cal. 86, approved.—15 Cal. 107.

Section 21, sub-section 2 of Act VIII of 1885 is expressly retrospective, and applies to suits pending at the date of the commencement of that Act. Jogessur Das *v.* Aisani Koyburto, I. L. R., 14 Cal. 553, followed.—15 Cal. 376.

Before the Bengal Tenancy Act of 1885 came into operation, a decree for rent was obtained under Bengal Act VIII of 1869. After the Bengal Tenancy Act of 1885 had become law, the tenancy, in respect of which the rent had become due, was attached in execution of such decree. A claim was subsequently put in to the attached property by a third person, which claim was disallowed as being forbidden by sec. 170 of the Bengal Tenancy Act of 1885 : *Held* that the provisions of the Bengal Tenancy Act of 1885 were applicable to the proceedings in execution ; the term "proceedings" in sec. 6 of Act I of 1868 not including proceedings in execution after decree.—16 Cal. 267.

Held, in the case of a document executed while Act VIII of 1871 was in force, the registration of which under that Act was optional, and which was not registered thereunder, and of a document executed after Act III of 1877 had come into force, the registration of which under that Act was compulsory, and which was registered thereunder both documents relating to the same property, that under the provisions of sec. 50 of Act III of 1877, the registered document took effect as regards such property against the unregistered document, the provisions of sec. 6 of Act I of 1868 notwithstanding.—2 Al. 851.

Prior to the 1st May, 1882, the Secretary and Manager of a projected Company (which was to be limited by shares) applied to the Registrar of Joint Stock Companies for a certificate of incorporation of the Company,

intending that it should be registered under Act X of 1866, the Indian Companies Act then in force, and forwarded the memorandum and articles of association with the necessary stamp-fees, and did everything that was required to be done by or on behalf of the Company to obtain a certificate under that Act. No order was passed by the Registrar upon this application until the 6th May, and owing to delay, for which the applicants were not responsible, registration was not effected and the certificate was not issued until the 3rd July, when a certificate was given purporting to be granted in pursuance of Act X of 1866. Meanwhile, on the 1st May, 1882, the Indian Companies Act (VI of 1882) repealing Act X of 1866 came into force, sec. 28 of which provided that every share in any Company should be deemed to have been taken and held subject to payment of the whole amount thereof in cash, unless the same had been otherwise determined by a contract in writing filed with the Registrar. No such provision existed in Act X of 1866. The shareholders of the Company paid nothing upon their shares in cash ; but had agreed (not in writing filed with the Registrar) that, in consideration of certain property conveyed by them to the Company at the time of its formation, fully paid-up shares were to be allotted to them. Subsequently the Company having gone into liquidation, the official liquidator sought to make the shareholders contributories to the assets of the Company as the holders of shares upon which nothing had been paid, with reference to sec. 28 of the Indian Companies Act, VI of 1882. *Held* that the proceedings for obtaining registration of the Company and a grant of a certificate of such registration commenced, within the meaning of sec. 6 of the General Clauses Act, when the memorandum and articles of association were received in the Registrar's office in April 1882, while Act X of 1866 was in force ; that therefore the repeal of that Act by Act VI of 1882 did not affect those proceedings ; that consequently the Company must be taken to have been incorporated under the former Act ; and that the provisions of sec. 28 of Act VI of 1882 not being applicable, the shareholders were not liable to be placed on the list of contributories as not having paid the full amount of their shares.—I. L. R , 11 Al. 349.

Judicial notice to be taken of Acts and Regulations.

7. [*Repealed by Act I of 1872.*]

Recitals in Acts to be *primâ facie* evidence of truth of fact recited.

8. [*Repealed by Act I of 1872.*]

ACT NO. I. OF 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1887.

An Act for further shortening the language used in Acts of the Governor-General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor-General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1 ; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the General Clauses Act, 1887 ; and

(2) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

Application of this Part.

2. This Part shall apply to this Act and to all Acts made by the Governor-General in Council under the Indian Councils Act, 1861, after the passing of this Act.

Definitions.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

(2) "Chapter," "Part," and "Schedule," shall denote, respectively, a Chapter and Part of, and Schedule to, the Act in which the word occurs:

(3) "sub-section" shall denote a sub-section of the section in which the word occurs:

(4) "commencement," used with reference to an Act, shall mean the day on which the Act comes into force:

(5) "financial year" shall mean the year commencing on the 1st day of April:

(6) "local authority" shall mean 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:

(7) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

(8) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(9) "offence" shall mean any act or omission made punishable by any law for the time being in force:

(10) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code:

(11) "registered" shall mean registered under the law for the time being in force for the registration of documents:

(12) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions:

(13) "value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit: and

(14) "write," with its grammatical variations and cognate expressions shall include "print" and "lithograph," with their grammatical variations and cognate expressions.

Making of rules and issue of orders between passing and commencement of Act.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor-General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

Powers to be exercisable by the Government from time to time.

5. Any power conferred on the Governor-General in Council or on a Local Government by an Act to which this part applies may be exercised from time to time as occasion requires.

Provisions applicable to making of rules after previous publication.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely :—

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that author deems to be sufficient, or, if the condition with respect to previous pu[illegible]cation so requires, in such manner as the Governor General in Coun[illegible] or the Local Government prescribes.

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

(4) The authority having power to make the rules, and, where t[illegible] rules are to be made with the sanction, approval, or concurrence of anoth[illegible] authority, that authority also shall consider any objection or suggestio[illegible] which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publications shall be conclusive proof that the rule has been duly made.

Computation of time.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

Provisions as to offences under more than one enactment.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

Amendment of section 3 (1), Act I, 1868.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act.

Application of this Act and Act I, 1868, to Regulations under 33 Vic., chap. 3, sec. 1.

10. The provisions of this Act, and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor-General under the Statute 33 Victoria, Chapter 3, section 1, after the commencement of this Act.

PRESIDENCY SMALL CAUSE COURTS.

ACT NO. XV. OF 1882.

[*EXTRACTS.*]

RECEIVED THE G.-G.'S ASSENT ON THE 17TH MARCH 1882.

An Act to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency Towns.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta, Madras, and Bombay; It is hereby enacted as follows:—

CHAPTER XII.

CONTEMPT OF COURT.

Procedure of Court in certain cases of contempt.

83. When any such offence as is described in section 175, 178, 179, 180, or 228 of the Indian Penal Code, is committed in the view or presence of the Small Cause Court, the Court may cause the offender to be detained in custody; and, at any time before the rising of the Court on the same day, may, if it thinks fit, take cognizance of the offence, and punish the offender with fine which may extend to two hundred rupees, and in default of payment of such fine with imprisonment in the civil jail for a term which may extend to one month, unless such fine is sooner paid.

Record in such cases.

84. In every such case the Court shall record the facts constituting the offence, the statement (if any) made by the offender and the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court, when interrupted or insulted, was sitting on the nature of the interruption or insult offerred.

Procedure where Court considers that case should not be dealt with under section 83.

85. If the Court considers that a person accused of any offence referred to in section eighty-three, and committed in its view or presence, should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or if the Court is, for any other reason, of opinion that the case should not be disposed of under section eighty-three, the Court after recording the facts constituting the offence, and the statement of the

accused as hereinbefore provided, may forward the case to a Presidency Magistrate, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, may forward him under custody to such Magistrate.

Such Magistrate shall deal with the accused person in the manner provided by the Presidency Magistrates' Act, 1877; and may sentence the offender to punishment as provided in the section of the Indian Penal Code under which he is charged.

Discharge of offender on submission or apology.

86. When the Court has, under section eighty-three or section eighty-five, punished an offender, or forwarded him to a Presidency Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion discharge the offender, or remit the punishment on his submission to the order or requisition of the Court, or on apology being made to its satisfaction.

Imprisonment of committal of person refusing to answer or produce document.

87. If any witness before the Small Cause Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section eighty-three or section eighty five.

Appeal from orders under sections 83 and 87.

88. Any person deeming himself aggrieved by an order under section eighty-three or section eighty-seven may appeal to the High Court, and the provisions of the Presidency Magistrates' Act, 1877, relating to appeals, shall, so far as may be, apply to appeals under this section.

INDIAN TREASURE TROVE.

ACT NO. VI. OF 1878.

(As amended by Act XII of 1891.)

PASSED ON THE 13TH FEBRUARY 1878.

An Act to amend the Law relating to Treasure-Trove.

Preamble.

WHEREAS it is expedient to amend the law relating to treasure-trove ; It is hereby enacted as follows :—

Preliminary.

Short title.

1. This Act may be called "The Indian Treasure-Trove Act, 1878."

Extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force at once.

2. [*Repealed by Act XII of* 1891.]

Interpretation-clause.

3. In this Act—

"Treasure."

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto :

"Collector."

"Collector" means (1) any revenue officer in independent charge of a district, and (2) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

Owner.

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

Procedure on finding Treasure.

Notice by finder of treasure.

4. Whenever any treasure exceeding in amount or value of ten Rupees is found, the finder shall as soon as practicable, give to the Collector notice in writing—

(*a*) of the nature and amount or approximate value of such treasure

(*b*) of the place in which it was found ;

(*c*) of the date of the finding ;

and either deposit the treasure in the nearest Government Treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may from time to time require.

Note.

When the finder of any treasure has deposited it in the nearest Government Treasury, the Collector may remove it to any other Government Treasury.

When the finder of any treasure has not deposited it in any Government Treasury, or refuses or neglects to give the security required, the Collector may take possession of such treasure and remove it to the nearest, or any Government Treasury.

Notification requiring claimants to appear.

5. On receiving a notice under section 4, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely) :—

(*a*) he shall publish a notification in such manner as the Local Government from time to time prescribes in this behalf, to the effect that on a certain date (*mentioning it*), certain treasure (*mentioning its nature, amount, and approximate value*), was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification ;

(*b*) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

Note.

The Collector's Notification requiring claimants to appear shall be published by him in the English language in the Fort Saint George Gazette through the Chief Secretary to Government.

Copy of such published Notification shall be inserted by the Collector in four consecutive issues of the District Gazette in the Vernacular and in English. Copies of the original Notification shall also be forwarded by him to the Secretary to the Government of India, Home Department, the Secretary to the Government of Bengal, and the Chief Secretary to the Government of Bombay, for insertion in the Gazette of India, the Calcutta Gazette and the Bombay Gazette respectively.

The date on which the Notification is first published in the Fort Saint George Gazette, shall be taken to be the date of publication for the purposes of this section.

Forfeiture of right on failure to appear.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5, shall forfeit such right.

Matters to be enquired into and determined by the Collector.

7. On the day notified under section 5, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

(*a*) the person by whom, the places in which, and the circumstances under which, such treasure was found; and

(*b*) as far as is possible the person by whom, and the circumstances under which, such treasure was hidden.

Time to be allowed for suit by person claiming the treasure.

8. If, upon an enquiry made under section 7, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

When treasure may be declared ownerless.

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under section 8, no suit is instituted as aforesaid within such period to the knowledge of the Collector; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be ownerless.

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue authority.

Subject to such appeal, every such declaration shall be final and conclusive.

Note.

The cheif controlling Revenue authority is the Governor in Council.

Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure under section 9, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under section 5 and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

When no other person claims as owner of place, treasure to be given to finder.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely) :—

When only one such person claims and his claim is not disputed, treasure to be divided.

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith :

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(*a*) allot to either party the whole or more than his share of such treasure, on such party paying to the collector for the other party such sum of money as the collector may fix as the equivalent of the share of such other party or of the excess so allotted, as the case may be ; or

(*b*) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed ;

Provided also, that when the collector has by his declaration under sec. 9, rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

And shares to be delivered to parties.

Note.

Whenever the collector desires to sell any treasure, or any portion thereof, by public auction, he shall take the orders of the Governor in Council as to the time and place of such sale or sales, and as to the lots in which the treasure shall be put up to sale ; and shall be guided by the orders received by him from the Governor in Council in the premises.

The purchase-money shall be paid immediately on the lot being knocked down to any purchaser, and if not so paid, the lot shall be immediately put up and re-sold.

In case of dispute as to ownership of place, proceeding to be stayed.

13. When declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

Settlement of such dispute.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

And division thereupon.

15. If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of section 12, divide the treasure between him and the finder.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

Power to acquire the treasure on behalf of Government.

16. The Collector may, at any time after making a declaration under section 9, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

Decision of Collector final, and no suit to lie against him for acts done *bona fide*.

17. No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Collector to exercise powers of Civil Court.

18. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

19. The Local Government may, from time to time, make rules consistent with this Act to regulate proceedings hereunder.

Power to make rules.

Such rules shall, on being published in the Local Gazette, have the force of Law.

Penalties.

20. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by section 4, or alters or attempts to alter such treasure as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

Penalty on finder failing to give notice, &c.

and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

21. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section 20, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

Penalty on owner abetting offence under section 20.

and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

SCHEDULE.

[*Repealed by Act No. XII* 1891.]

DESTRUCTION OF RECORDS.

ACT NO. III. OF 1879.

(*As amended by Act XII of* 1891.)

PASSED ON THE 8TH MARCH 1879.

An Act to authorize the destruction of Useless Records.

WHEREAS it is expedient to provide for the destruction or other disposal of useless records, books and papers in Courts and Revenue offices; It is hereby enacted as follows:—

Preamble.

Short title.
Local extent.
Commencement.

1. This Act may be called "The Destruction of Records Act, 1879;" it extends to the whole of British India; and it shall come into force at once.

Power of High Court to make rules for disposal of records, &c.

2. The High Court may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of such High Court, or the Courts of Civil and Criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

So far as regards his own Court, the Court of Small Causes in Rangoon and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall, for the purpose of this section, be deemed to be a High Court.

Similar power to Presidency High Courts with respect to documents in Insolvency Courts and Administrator-General's office.

3. Each of the High Courts of judicature at Fort William, Madras and Bombay may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of

(*a*) the local Court for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

(*b*) the local Administrator-General,

as the High Court may consider useless or unworthy of being permanently preserved.

Similar power to Chief Controlling Revenue Authority

4. The Chief Controlling Revenue Authority may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or in the custody of the Revenue

Courts and Offices as it may consider useless or unworthy of being permanently preserved.

Rules when to have force of law.

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Validation of rules as to destruction of documents.

6. All rules and orders heretofore made by a Local Government, a High Court or a Chief Controlling Revenue Authority for the destruction or other disposal of useless records, books and papers belonging to or in the custody of any Court or Revenue office shall be deemed to have had the force of law from the date on which they were made, and all such rules now in force shall continue to have the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained or continued against any person for the disposal, by destruction or otherwise, of any records, books or papers in accordance with any such rules or with any order made by a Local Government, High Court or Chief Controlling Revenue Authority.

Repeal of enactments.

Interpretation clause.

7. In this Act "Chief Controlling Revenue Authority" means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces—and the Chief Commissioner of Oudh*—the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay—a Revenue Commissioner: in Sind—the Commissioner: in the Punjab and Burmah†—the Financial Commissioner: and elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office.

Saving of documents kept under provision of law.

8. Nothing herein contained shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force is to be kept and maintained.

9. [*Repealed by Act XII of 1891*].

SCHEDULE.

[*Repealed by Act XII of 1891.*]

* The words "and the Chief Commissioner of Oudh" have been added by Act XX of 1890, sec. 38.

† Here the words "and Burmah" have been added.—See Act XVIII of 1888, Sch.

WEIGHTS AND MEASURES.

ACT NO. XXXI. OF 1871.

PASSED ON THE 30TH OCTOBER 1871.

An Act to regulate the weights and measures of Capacity of British India.

WHEREAS it is expedient to provide for the ultimate adoption of a uniform system of Weights and Measures of Capacity throughout British India; It is hereby enacted as follows:—

Preamble.

I.—PRELIMINARY.

1. This Act may be called "The Indian Weights and Measures of Capacity Act 1871," and extends to the whole of British India.

Short title.
Local extent.

II.—STANDARDS.

2. The primary Standard of Weight shall be called a Seer, and shall be a Weight of metal in the possession of the Government of India, equal, when weighed in a vacuum to the weight known in France as the Kilogramme desarchives.

Standard of Weights.

3. The Units of Weights and of Measures of Capacity shall be—for Weights, the said seer;

Units of Weights and Measures of Capacity.

for Measures of Capacity, a measure containing one such seer of water at its maximum density, weighed in a vacuum.

4. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare the magnitude and denominations of the Weights and Measures of Capacity, other than the said units, to be authorized under this Act:

Special Weights and Measures of Capacity to be authorized.

Provided that every such Weight or Measure of Capacity shall be an integral multiple or integral-sub-multiple of one of the units aforesaid.

The Governor-General in Council may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the sub-divisions of all such Weights and Measures of Capacity shall be expressed in decimal parts.

5. The Governor-General in Council may, from time to time, by notifications in the *Gazette of India*, define the limits of districts for the purposes of this Act.

District how defined.

The Local Government may, from time to time, by notification in the official Gazette, define the limits of sub-districts for the purposes of this Act.

Sub-districts how defined.

6. The Governor-General in Council may provide, for such districts as he thinks fit, proper primary standards and sets of the said authorized Weights and Measures of Capacity.

Primary standards to be provided.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

7. The Local Government may provide, for such sub-districts as it thinks fit, copies of such of the said authorized Weights and Measures of Capacity as shall be necessary to serve as local standards in such sub-districts.

Local standards to be provided.

Such Local standards shall be deemed correct, until they are proved to be otherwise.

III.—USE OF NEW WEIGHTS AND MEASURES OF CAPACITY.

8. Whenever the Governor-General in Council considers that proper standard Weights and Measures of Capacity have been made available for the verification of the Weights and Measures of Capacity to be used by any Government Officer or Municipal Body or Railway Company, the Governor-General in Council may, by notification in the *Gazette of India*, direct that, after a date to be fixed therein, all or any of the Weights and Measures of Capacity authorized as aforesaid shall be used in dealings and contracts by such Officer, Body, or Company; and may, in like manner, from time to time, alter or revoke such direction.

Use of new Weights and Measures of Capacity in Government Officers, &c.

9. After the date fixed in any notification under section eight, all dealings and contracts had and made by the Officers, Bodies, or Companies, mentioned in such notification, for any work to be done or goods to be sold or delivered by Weight or Measure of Capacity shall, in the absence of a special agreement to the contrary, be deemed to be had and made according to the Weights or Measures of Capacity directed in such notification to be used by such Officers, Bodies, or Companies.

Contracts by Weights or Measures of Capacity.

IV.—WARDENS.

10. The Governor-General in Council and the Local Government, respectively, shall appoint Wardens for the custody of the primary and local standards and sets of authorized Weights and Measures of Capacity, hereinbefore mentioned.

Appointment of Wardens.

The Governor-General in Council, or the Local Government, respectively, may, at any time, suspend or remove any such Warden and appoint another.

Power to make rules.

11. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the following matters :—

(*a*)—The appointment of Wardens ;

(*b*)—The guidance of Wardens in all matters connected with the performance of their duties ;

(*c*)—The provision, replacement, custody, and use of the standards ;

(*d*)—The method of verifying local standards and Weights, Weighing Machines, and Measures of Capacity authorized under this Act, and Balances, and of certifying such verification ; provided that such verification shall not be required to be made oftener than once in two years :

(*e*)—The errors which may be tolerated in Weights, Weighing Machines, and Measures of Capacity authorized under this Act, and in balances ;

(*f*)—The shapes, proportions, and dimensions to be given to Weights, Weighing Machines, and Measures of Capacity authorized under this Act, and to Balances, and the materials of which they may be made ;

(*g*)—Marking Weights and Measures of Capacity authorized under this Act with their several denominations ;

(*h*)—The conditions under which Government Officers, Municipal Bodies, and Railway Companies, shall be subject to inspection and verification of the Weights, Weighing Machines, and Measures of Capacity authorized under this Act, and of the Balances used by them.

(*i*)—The fees to be paid for verifying, correcting, and certifying the verification of Weights, Weighing Machines, and Measures of Capacity authorized under this Act, and of Balances.

Publication of rules.

12. Such rules shall be published in the *Gazette of India*.

Commencement of rules.

And the Governor-General in Council may, by notification in the *Gazette of India*, declare that, from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government Officer, Municipal Body, or Railway Company, and thereupon, to the extent specified in such notification, such rules or rule shall have the force of law.

Officers of Government and others to comply with rules.

13. All officers of Government, Municipal Officers, and Officers and servants of Railway Companies, shall comply with such rules, so far as they concern them, and pay such fees as the said rules shall prescribe.

Refusal to verify or correct things unfit.

14. The Warden may deface, or render incapable of use, or refuse to verify, correct, or mark, anything brought to him for verification or correction, which appears to him unfit for verification or correction.

Exercise of any of Warden's powers.

15. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other officer whom the Local Government may, from time to time, appoint.

Counterfeiting Warden's Marks.

16. Whoever knowingly counterfeits any mark used by a Warden under section 11, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Tables of equivalents.

17. The Local Government may, from time to time, prepare tables of the equivalents of Weights and Measures of Capacity, other than those authorized under this Act, in terms of the Weights and Measures of Capacity so authorized, and the equivalents so stated, after notification in the Local Official Gazette, shall be deemed the true equivalents.

MEASURES OF LENGTH.

ACT NO. II. OF 1889.

PASSED ON THE 15TH FEBRUARY 1889.

An Act to declare the Imperial Standard Yard for the United Kingdom to the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows :—

Title, extent and Commencement.

1. (1) This Act may be called the Measures of Length Act, 1889;

(2) It extends to the whole of British India; and

(3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept it such place within the limits of the Town of Calcutta as the Governor-General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One-third part of the standard yard shall be called a standard foot, and one-thirty-sixth part of such a yard shall be called a standard inch.

Presumption in favor of accuracy of certified measures.

5. Any measure having stamped there on or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Inspection of certified measures by the public.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it

free of charge at all reasonable time and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Certified measures to be kept by authorities required by existing enactments to keep measures of length.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioner in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

METAL TOKENS.

ACT NO. I. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST FEBRUARY 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons, of pieces of metal for use as money ;

Preamble.

And whereas it is also expedient to amend section 28 of the Indian Penal Code ;

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called "The Metal Tokens Act, 1889 ;"

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Definition.

2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

Prohibition of making by private persons of pieces of metal to be used as money.

3. No piece of copper or bronze, or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor-General in Council.

Penalty for unlawful making, issue, or possession of such pieces.

4. (1) In either of the following cases, namely :—

(*a*) if any person makes, in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(*b*) if, after the expiration of three months from the Commencement of this Act, any person has in his possession, custody, or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished—

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both ; or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody, or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

Cognizance of offences under the last foregoing section.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section, shall be a cognizable offence.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Sub divisional Magistrate, without the previous sanction of the District Magistrate or Sub-divisional Magistrate.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

6. If at any time the Governor-General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5 or of either sub section, in relation to the offence of making such pieces, shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

Addition to section 98, Act X., 1882.

7. To section 98 of the Code of Criminal Procedure, 1882, the following shall be added namely :—

"The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India, in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

(*b*) pieces of metal suspected to have been so made, or to have been so brought into British India, or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act."

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

(2) If any person, on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

9. *Incorporated with the Indian Penal Code.*

INDIAN MERCHANDISE MARKS.

ACT NO. IV. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST MARCH 1889.

(*As amended up to date.*)

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Indian Merchandise Marks Act, 1889.

(2) It extends to the whole of British India ; and*

(3) It shall come into force on the first day of April 1889.

Definitions.

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

(1) " trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act :

(2) " trade description" means any description, statement or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge or weight of any goods, or

(*b*) as to the place of country in which, or the time at which, any goods were made or produced, or

(*c*) as to the mode of manufacturing or producing any goods, or

(*d*) as to the material of which any goods are composed, or

(*e*) as to any goods being the subject of an existing patent, privilege or copyright ; and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act :

(3) " false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade descrip-

* Here certain words, which were repealed by Act IX of 1891.

tion is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

3. *Incorporated with the Indian Penal Code.*

TRADE DESCRIPTIONS.

Provisions supplemental to the definition of false trade description.

4. (1) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words, or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression 'false name or initials' means as applied to any goods any name or initials—

(*a*) not being a trade mark, or part of a trade mark, and

(*b*) being identical with, or a colorable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (1) A person shall be deemed to apply a trade description to goods who—

(*a*) applies it to the goods themselves, or

(*b*) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(*c*) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or

(*d*) uses a trade description in any manner reasonably calculated to lead to the belief that the goods, in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

Penalty for applying a false trade description.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

UNINTENTIONAL CONTRAVENTION OF THE LAW RELATING TO MARKS AND DESCRIPTIONS.

Unintentional contravention of the law relating to marks and descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

(*a*) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

FORFEITURE OF GOODS.

Forfeiture of goods.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486

of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

10 & 11.—*Incorporated with the Sea Customs Act.*

STAMPING OF LENGTH OF PIECE-GOODS MANUFACTURED IN BRITISH INDIA.

Stamping of lengh of piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

SUPPLEMENTAL PROVISIONS.

Evidence of origin of goods imported by sea.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *prima facie* evidence of the place or country in which the goods were made or produced.

Costs of defence or prosecution.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defend-

ant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

Limitation of prosecution.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

Authority of the Governor General in Council to issue instructions as to administration of this Act.

16. (1) The Governor-General in Council may, by notification in the *Gazette of India* and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-sections (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

Implied warranty on sale of marked goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Definition of piece-goods.

19.* For the purposes of section 12 of this Act, and clause (*f*) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor-General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

Determination of character of goods by sampling.

20.* (1) The Governor-General in Council may make rules for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge, or weight, for the number of samples to be selected and tested, and for the selection of the samples.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge, or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested, and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima-facie* evidence of the number, quantity, measure, gauge, or weight, as the case may be, of the goods.

(4) If a person, having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2), desires that any further samples of the goods be selected and tested, they shall, on his written application, and on the payment in advance by him to the Court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor-General in Council in this behalf, or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be

* Secs. 19, 20, 21, and 22 have been added by Act IX. of 1891; and sec. 19, as originally enacted, has been omitted, having been repealed by Act IX. of 1891.—See secs. 2 and 4 of Act IX. of 1891.

conclusive proof of the number, quantity, measure, gauge, or weight, as the case may be, of the goods.

(6) Rules under this section shall be made after previous publication.

Information as to commission of offences.

21.* An officer of the Government, whose duty it is to take part in the enforcement of this Act, shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Punishment of abetment in India of acts done out of India.

22.* If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would, under this Act, or under any section of that part of Chapter XVIII. of the Indian Penal Code which relates to trade, property, and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

* Secs. 19, 20, 21, and 22 have been added by Act IX. of 1891; and sec. 19, as originally enacted, has been omitted, having been repealed by Act IX. of 1891.—See secs. 2 and 4 of Act IX. of 1891.

MERCHANT SEAMEN.

ACT NO. I. OF 1859.*

RECEIVED THE G.-G.'S ASSENT ON THE 25TH JANUARY 1859.

An Act for the amendment of the law relating to Merchant Seamen.

Preamble.

Whereas the law for the registry of seamen and the grant of register-tickets has been found to be ineffective for the purposes intended; and whereas, by section 288 of an Act of the Imperial Parliament, called "The Merchant Shipping Act, 1854," it is enacted that, "if the Governor-General of India in Council, or the respective legislative authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid,† and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed;" and whereas it is expedient to discontinue the practice of registry and the grant of register tickets, and to apply to ships registered at, trading with, or being at any port or place in India, certain provisions of the third party of the said Act with such adaptations and modifications as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to merchant-seamen: It is enacted as follows:

1. [*Repealed by Act XIV of 1870.*]

SHIPPING OFFICES.

Shipping offices.

2. A shipping-office shall be established at each of the ports of Calcutta, Madras, and Bombay, and at such other ports as the Governor-General of India in Council shall hereafter deem necessary. For every such office there shall be a superintendent, to be called a "Shipping Master," with such necessary deputies, clerks, and servants, at such salaries, and subject

* Declared to extend to the whole of British India, except the Scheduled Districts, by Act XV. of 1874.

† Secs. 2–99 of Act I. of 1859 correspond with secs. 122–287 of 17 & 18 vic., c. 104.

to such regulations, as the Local Government* shall, from time to time, with the sanction of the Governor-General of India in Council, direct and appoint.

Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping-master.

Appointment, &c., of shipping masters and deputies.

3. The Local Government shall have power to appoint and remove such shipping-masters and deputies who shall respectively, be subject to the control of that Government or of any intermediate authority which it may appoint.

Business of shipping-masters.

4. It shall be the general business of shipping-masters appointed under this Act to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to merchant-seamen and merchant-ships as are hereby or under the said Merchant Shipping Act, 1854, or as may hereafter under the powers herein contained, be committed to them.

It shall also be the duty of shipping-masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to masters and owners of ships requiring apprentices, such assistance as may be ir power for facilitating the making of such apprenticeships.

Fees to be paid upon engagements and discharges.

5. Such fees, not exceeding the sums specified in the table marked (A) in the schedule to this Act, as are from time to time fixed by the Local Government, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the shipping-offices; and all shipping-masters, their deputies, clerks, and servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees by whom to be paid, &c.

6. Every owner or master of a ship engaging or discharging any seaman, in a shipping-office or before a shipping-master shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part re-imbursing himself, deduct in respect of each such engagement or discharge

* Under the provisions of Act XXXII. of 1867, the Governor-General in Council delegated to the Chief Commissioner of British Burmah the powers conferred on a 'Local Government' by this Act.—*Gazette of India*, March 22nd, 1873, Part I., p. 236.

from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked (B) in the schedule hereto.

Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

Penalty on shipping master taking other remuneration.

7. Any shipping-master, deputy shipping-master, or any clerk or servant in any shipping-office, who demands or receives any remuneration whatever, either directly, or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall, for every such offence, incur a penalty not exceeding two hundred rupees, and shall also be dismissed from his office.

Business of shipping-office may be transacted at custom-house or elsewhere.

8. The Local Government may direct that, at any place at which no separate shipping-office is established, the whole or any part of the business of the shipping-office shall be conducted at the custom-house, or at the office of the master attendant or harbour-master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom-house or office as aforesaid shall for all purposes be deemed to be a shipping-office, and the officer of customs or other officer there, to whom such business is committed, shall for all purposes be deemed to be a shipping master within the meaning of this Act.

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.*

Examinations.

9. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships or of home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.

Local Government to appoint Examiners. Rules for conduct of Examination. Fees.

10. The Local Government or any Board or officer duly authorized by the Local Government in that behalf shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for exa-

* The application of secs. 9 to 16 is limited by Act IV. of 1875, sec. 29. Act IV. of 1875, however, stands repealed from the 1st January 1884 by Act V. of 1883 (Indian Merchant Shipping), sec. 37 of which enacts as follows: "Sections 9 to 16 shall not apply to ships registered under Act X. of 1841, and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars, or other Asiatic masters and seamen."

mination. The Local Government may, with the sanction of the Governor-General of India in Council, make rules for the conduct of such examinations and as to be qualifications to the required ; and such rules shall be strictly adhered to by all examiners. "Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor-General in Council, fix in this behalf shall be paid by all applicants for examination."*

Certificates of competency.

11. The Local Government or such Board or officer as aforesaid shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a foreign-going ship or of a home-trade ship of a burden exceeding three hundred tons, as the case may be.

"Provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting a certificate, or re-examination of the applicant or a further inquiry into is testimonials and character."†

Certificates of service.

12. Certificates of service differing in form from certificates of competency shall be granted as follows (that is to say)—

1. Every person who before the passing of this Act has served as master in the British merchant-service or as master of any foreign-going ship registered under Act X of 1841, or who has obtained or shall attain the rank of lieutenant, master, passed mate, or second mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships.

2 Every person who before the passing of this Act has served as mate in the British merchant-service or as mate of any such ship as aforesaid shall be entitled to a certificate of service as mate for foreign-going ships.

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* The words quoted have been substituted by Act V. of 1883, (Indian Merchant Shipping) for those originally enacted. But note that the amended provision comes into force from 1st January 1884. The words originally enacted are: "Fees at the following rates shall be paid by all applicants for examination: For a certificate as master, Rs. 10; for a certificate as mate, Rs. 5." These words stand repealed from 1st January 1884, when the Indian Merchant Shipping Act of 1883 comes into force.

† This proviso has been added by Act V. of 1883 (Indian Merchant Shipping), sec. 35, and comes into force from the 1st January 1884.

3.—Every person who before the passing of this Act has served as master or mate of a home-trade ship of a burden exceeding three hundred tons shall be entitled to a certificate of service as master or mate (according to such previous service) for such home-trade ships.

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government or such other authority as aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No foreign-going ship and no home-trade ship above 300 tons to go to sea without certificated master, &c.

13. No foreign-going ship or home-trade ship of a burden exceeding three hundred tons shall go to sea from any port in India unless the master and one officer besides the master have obtained and possess valid and appropriate certificates either of competency or service under this Act or under the Merchant Shipping Act, 1854; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall, for each such offence, be liable to a penalty of five hundred rupees.

Certificates for foreign-going ships available for home-trade ships.

14. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Record of grants, cancellations, &c., of certificates.

15. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered in the record of certificates.

Loss of certificate.

16. Whenever any master or mate proves to the satisfaction of the Local Government or such other authority as aforesaid that he has, without fault on his

part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

17. [*Repealed by Act XV. of* 1863.]

ENGAGEMENT OF SEAMEN.

Licenses to procure seamen.

18. The Local Government, or any Board or officer duly authorized by the Local Government in that behalf, may grant to such persons as may be deemed fit, licenses to engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.

Penalties.

19. The following offences shall be punishable as hereinafter mentioned (that is to say)—

For supplying seamen without license.

(1.) If any person not licensed as aforesaid other than the owner or master or made of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall, for each seaman so engaged or supplied, incur a penalty not exceeding one hundred rupees.

For employing unlicensed persons.

(2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall, for each seaman so engaged or supplied, incur a penalty not exceeding one hundred rupees, and, if licensed, shall in addition forfeit his license.

For receiving seamen illegally supplied.

(3.) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall, for every seaman so engaged or supplied, incur a penalty not exceeding one hundred rupees.

Penalty for receiving remuneration from seamen for shipping them.

20. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall, for every such offence, incur a penalty not exceeding fifty rupees, and, if licensed as aforesaid, shall in addition forfeit his license.

21. [*Repealed by Act XV. of* 1863. *See now Act IV. of* 1875,* *secs. 24—27, as to agreements with seamen.*]

Rules as to agreements, in case of foreign-going ships.

22. In the case of all foreign-going ships,† in whatever part of Her Majesty's dominions the same are registered the following rules shall be observed with respect to agreements (that is to say)—

Agreement to be signed by seaman.—

1. Every agreement made in any port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a shipping-master.

Shipping-master to cause agreement to be explained to seaman.

2. Such shipping master shall cause the agreement to be read over and explained to each seaman in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

To be in duplicate.

3. When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

Provision for substitutes.

4. In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping-master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign-going ships making short voyages may have running agreements.

23. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her port of destination in India after such date, or the discharge of cargo

* Act IV. of 1875 stands repealed from 1st January 1884 by Act V. of 1883 (Indian Merchant Shipping), in which the repealed provisions as to agreements with seamen are re-enacted.

† See *infra*, sec. 118.

consequent upon such arrival ; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships ; and every person engaged thereunder, if discharged in any port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement and discharge of seamen in the meantime.

24. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in India before the final termination of the agreement, discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage ; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required ; and shall deliver the agreement so endorsed to the shipping master :

and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding two hundred rupees ;

and the shipping-master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Fees to be paid on such running agreements.

25. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates ; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In home trade ships agreement to be entered into before a shipping master or other witness.

26. In the case of home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the manner hereinbefore directed with respect to foreign-going ships ; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

27. In case where several home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for home-trade ships shall be applicable to agreements made in pursuance of this section.

Special agreements for home-trade ships belonging to same owner.

28. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall, for each such offence, incur a penalty not exceeding fifty rupees.

Penalty for shipping seamen without agreement duly executed.

29. The master of every foreign-going ship, of which the crew has been engaged before a shipping master, shall, before finally leaving India, sign and send to the nearest shipping-master a full and accurate statement, in a form sanctioned by the Governor-General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall, for each offence, incur a penalty not exceeding fifty rupees; and such statement shall be admissible in evidence subject to all just exceptions.

Changes in crew to be reported.

30. For the purpose of preventing any seamen from being shipped at any port in India contrary to the provisions of this Act, the shipping-master, by himself or his deputy, may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said shipping-master or deputy in such duty shall be liable to a penalty not exceeding one hundred rupees.

To prevent infraction of Act, shipping-master may board vessels and muster seamen.

31. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships (that is to say)—

Production of agreements and certificates in case of foreign-going ships.

1. The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed

as hereby required, the shipping-master shall sign and give to the master a certificate to that effect.

2. In the case of running agreements for foreign-going ships, the shipping-master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any mate then first engaged by him, a certificate to that effect.

3. The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping-master as aforesaid to the collector of customs, or if there be no collector of customs, to the officer whose duty it is to grant a port-clearance, No officer of customs or other officer shall clear any such ship outwards without such production ; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

4. The master of every foreign-going ship shall, within forty-eight hours after the ships arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place ; and such shipping master shall thereupon give to the master a certificate of such delivery ; and no officer of customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

And if the master of any foreign-going ship fails to deliver the agreement to a shipping-master at the time and in the manner hereby directed, he shall, for every default, incur a penalty not exceeding fifty rupees.

32. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home trade ships of a burden exceeding three hundred tons (that is to say)—

Rules as to production of agreements and certificates for home trade ships.

1. No such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2. The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in India within twenty-one days after either the thirtieth day of June or the thirty-first

day of December in any year) within forty-eight hours after her next arrival at any port in India, transmit or deliver to some shipping-master in India every agreement made within the six calendar months next preceding such days respectively, and shall also produce to the shipping-master the certificates of competency or service which the said master and his mate are hereby required to possess.

3. The shipping-master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs or other officer authorized to grant a port clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such officer may detain her until the said certificate is produced.

And if the agreement for any home-trade ship is not delivered or transmitted by the master or owner to a shipping-master at the time and in the manner hereby directed, such master or owner shall, for every default, incur a penalty not exceeding fifty rupees.

Alterations to be void unless attested to have been made with the consent of all parties.

33. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship), shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in Her Majesty's dominions) of some shipping-master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Copy of agreement to be made accessible to crew.

34. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall, for each offence, incur a penalty not exceeding fifty rupees.

Seamen discharged before voyage to have compensation.

35. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one

month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

REGULATION OF ADVANCES.

36. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note* given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the agreement before a shipping-master, unless in the presence of such shipping-master.

Regulation of advances and advance notes.

37. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Advances irregularly or improperly made not to be a discharge of wages.

ALLOTMENT OF WAGES.

38. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the shipping-master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Stipulations for allotment to be inserted in the agreement. Allotment notes.

39. The owner or any agent who has authorized the drawing of an allotment-note shall pay to the shipping-master on demand in sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums

Owner, &c., to pay to shipping master the sums allotted. Suits on allotment notes. Evidence.

*See *Mc Kune* v. *Joynson*, 5 C. B. N. S. 218.

not being paid to the shipping-master on demand, the shipping-master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Receipts and payments by shipping-master on account of allotment-notes.

40. The shipping-master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the shipping-master or his deputy; and the said book shall be at all times open to the inspection of the parties concerned.

DISCHARGE AND PAYMENT OF WAGES.

Discharge from foreign-going ships to be made before shipping-master.

41. All seamen discharged from any foreign-going ship at any port in India, in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping-master duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding one hundred rupees; and in the case of home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Master to deliver account of wages.

42. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping-master, to such shipping-master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall, for each offence, incur a penalty not exceeding fifty rupees; and no deduction from the wages of any seamen (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall, during the voyage, enter the various matters in respect of which such deductions

are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

43. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall, for each such offence, incur a penalty not exceeding one hundred rupees; and the master shall, also upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate and shall, in default, incur a penalty not exceeding two hundred rupees.

Shipping master may decide questions which parties refer to him. How award may be enforced.

44. Every shipping-master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof. An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provisions of section 55.

Master and others to produce ship's papers to shipping-masters, and give evidence.

45. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping-master under the provisions of this Act, such shipping-master may call upon the owner or his agent, or upon the master, or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine of such persons being then at or near the place on any such mat- ; and every owner, agent, master, mate, or other member of the crew, who, when called upon by the shipping-master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some rea-

sonable excuse for such default, for each such offence, incur a penalty not exceeding fifty rupees.

Settlement of wages.

46. The following rules shall be observed with respect to the settlement of wages (that is to say)—

Release to be signed before, and attested by, the shipping-master.

1.—Upon the completion before a shipping-master of any discharge and settlement, the master or owner and each seaman shall respectively in the persence of the shipping-master, sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the shipping-master shall also sign and attest the release, and shall retain the same.

To be a discharge.

2.—Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

And to be evidence.

3.—A copy of such release, certified under the hand of such shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

No other receipt to be a discharge.

4.—In cases in which discharge and settlement before a shipping-master are hereby required, no payment, receipt, settlement, or discharge other-wise made, shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to master and to be evidence.

5.—Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

LEGAL RIGHTS TO WAGES.

Right to wages and provisions when to begin.

47. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

48. No seaman shall, by any agreement, forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his rights, to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Seamen not to give up certain rights.

49. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim.

Wages not to be dependent on the earning of freight.

50. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who died during a voyage.

In case of death, such wages to be paid as after mentioned.

51. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act, 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or illness.

52. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

53. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after

Period within which wages are to be paid.

the seaman's discharge, whichever first happens ; and the seaman shall, at the time of his discharge, be entitled to be paid on account a sum equal to one fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten day's* during which payment is delayed beyond the respective periods aforesaid ; and such sum shall be recoverable as wages.

Sum in current coin of India recoverable by seaman under agreement expressing his wages, &c., to be payable in foreign coin.

54. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover in the current coin of India the amount due to him, estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.†

MODE OF RECOVERING WAGES.

Seaman may sue summarily before any Magistrate for wages not exceeding 500 rupees. Order of Magistrate final.

55. Any seaman or apprentice, or any person duly authorized on his behalf, may sue, in a summary manner, before any magistrate acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred rupees. Every order made by such Magistrate in the matter shall be final.

Levy of wages by distress.

56. When an order for the payment of wages is made by a Magistrate under the last preceding section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the Magistrate.

No suit for wages under 500 rupees to be instituted in Admiralty Court, &c, except in certain cases.

57. No suit or proceeding for the recovery of wages under the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of admiralty or vice-admiralty, or in any Court of civil judicature other than the Court of Small Causes, where such Court exist, unless the owner of the

* *The Princes Helena*, 1 Lush. 190. † See Act XIII. of 1876.

ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court, or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

Master to have same remedies for wages as seamen.

58. Every master* of a ship shall, so far as the case permits, have the same rights, liens,† and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages ; and if, in any proceeding in any Court of admiralty or vice-admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

WAGES AND EFFECTS OF DECEASED SEAMEN.

Master to take charge of effects of deceased seamen.

59. Whenever a seaman or apprentice, on a voyage which is to terminate at any port in India, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effects left by the deceased, and, in case of a sale of such effects, the sum received for each article sold.

Effects and wages to be paid to shipping-master with full accounts.

60. The master shall, within forty-eight hours after his arrival at his port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping-master at such port, and shall give to such shipping-master an account of the effects, money, and wages so to be delivered and paid ; and no deductions claimed in such account shall be allowed unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the shipping-master to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

61. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or

* This includes the master of a foreign ship, *The Milford*, 1 Swa. 362.

† See *The Raja of Cochin*, 1 Swa. 472.

apprentice to the shipping-master as aforesaid, and shall pay and deliver the same accordingly : and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or, if such value is not ascertained, not exceeding five hundred rupees. All money, wages, and effects of any seaman or apprentice dying during a voyage, shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seamen may be paid without probate.

62. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a shipping-master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping-master thinks proper to allow, the shipping-master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered ; or if he think fit so to do, the shipping-master may require probate or letters of administration or a certificate under the *Succession Certificate Act*, 1889* to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Disposal of wages or effects of deceased seamen not claimed within one year.

63. In cases of wages or effects of deceased seamen or apprentices received by any shipping-master to which no claim is substantiated within one year from the receipt thereof by such shipping-master, it shall be the duty of the shipping-master to to cause such effects to be sold, and to pay the proceeds of the sale and the unclaimed wages into the public treasury.

If subsequent claim be made thereto.

If any subsequent claim is made to such money, and is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid out of the public treasury.

If the claim is not established to the satisfaction of the shipping-master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the Presidency,† and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just.

Proviso.

Provided that after the expiration of six years from the receipt of such wages or effects by the shipping-master, no such claim shall be entertained without the sanction of the Local Government.

* See Act XII of 1891, Second Schedule. † See Act XII. of 1876.

PROVISIONS, HEALTH, AND ACCOMMODATION.

Survey of provisions and water on complaint made.

64. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in India may complain to any shipping-master or other officer duly appointed in this behalf by the Local Government that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship;

and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall, in every such case, incur a penalty not exceeding two hundred rupees;

and upon every such examination as aforesaid, the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the shipping-master, and such report, if produced out of the custody of such shipping-master, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

65. If the officer to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

66. In the following cases (that is to say)—

1.—If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

2.—If it is shown that any of such provisions are or having during the voyage been bad in quality and unfit for use;

the seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to, and to be recoverable as, wages (that is to say)—

(1.)—If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

(2.)—If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

(3.)—In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown to the satisfaction of the Court or Magistrate trying the case that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.*

Medicines, &c., to be provided and kept on board certain ships. Proviso.

67. All foreign-going ships and all home-trade ships of a burden exceeding three hundred tons shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the Local Government with the approval of the Governor-General of India in Council, and published at Calcutta, Madras, and Bombay in the Government Gazettes,† and in default thereof, the owner or master of every such ship shall be liable to a penalty not exceeding two hundred rupees. Provided, however, that this section shall not apply to ships navigating from the United King dom and coming within the provisions of section 224 of the Merchant Shipping Act, 1854.

Masters to keep weights and measures on board.

68. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles

* See *The Josephine*, 1 *Swa.* 152. † See Act XII of 1876.

served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witnees whenever any dispute arises about such quantities, and in default shall, for every offence, incur a penalty not exceeding one hundred rupees.

Expense of Medical attendance and subsistence in case of illness how to be defrayed.

69. Whenever the master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured, or shall be brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel, without any deduction on that account from the wages of such master, officer, or seaman ; and, if paid by himself, may be recovered as part of his wages ; and, if paid or allowed out of any monies forming part of the revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Place to be appropriated,

70. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act ; such place or places shall be so arranged as to allow for the men the following spaces :—

to European seamen,

1.—For each European seaman or apprentice or other person shipped on the same footing as a European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck ; or fifty-four cubic feet if the height from deck to deck be less than six feet.

to lascars or native seamen.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

Place to be kept clear. Penalty if place be not properly constructed. Penalty for not keeping space clear.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage ; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding two hundred rupees ; and if any such space as aforesaid is not kept free from goods

and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding one hundred rupees.

Shipping-master, &c., may enter on board any ship and inspect provisions, &c.

71. The shipping-master at any port in India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act, 1854.

Procedure if provisions, &c., are found to be bad.

If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the shipping-master shall proceed as provided in section 64 of this Act, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water.

POWER OF MAKING COMPLAINTS.

Seamen to be allowed to go ashore to make complaint to a Justice.

72. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding one hundred rupees.

PROTECTION OF SEAMEN FROM IMPOSITION.

Sale of and charge upon wages to be invalid.

73. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power-of-attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

Debt exceeding three rupees when recoverable.

74. No debt exceeding in amount three rupees, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house keepers.

75. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding one hundred rupees.

Penalty for detaining seamen's effects.

76. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding one hundred rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go on board before the final arrival of ship, without permission.

77. Every person who, not being in the service of Her Majesty, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall, for every such offence, incur a penalty not exceeding two hundred rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any police-officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging house keepers.

78. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall, for every such offence, incur a penalty not exceeding fifty rupees.

DISCIPLINE.

Penalty for misconduct, endangering ship, or life or limb.

79. Any master of, or any seaman or apprentice belonging to, any ship registered at, trading with, or being at any port or place in India, who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such

ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall, for every such offence, be "punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both."*

Admiralty Court in India may, in certain cases, remove master, and appoint a new master.

80. Any Court having admiralty jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part-owner or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship, within the jurisdiction of the Court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

81, 82. [*Repealed by Act XV. of* 1863. *Repealed by Act IV. of* 1875.†]

Offences of seamen and apprentices, and their punishments

83. Whenever any seaman‡ who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows (that is to say)—

Desertion

1. For desertion§ he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any

* The words quoted have been substituted by Act V. of 1883 (Indian Merchant Shipping) for those originally enacted. The original words were—"liable to imprisonment, with or without hard labour, for a term not exceeding two years." But note that the amendment comes into force from 1st January 1884.

† Act IV. of 1875 stands repealed from 1st January 1884 by the Indian Merchant Shipping Act, V. of 1883, where the provisions are re-enacted.

‡ See *infra*, sec. 118.

§ Abandoning the ship *sine animo revertendi*, and without just cause. *The Two Sisters*, 2 W. Rob. 125.

excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Neglecting or refusing to join, or to proceed to sea; absence within twenty four hours before sailing, and absence without leave.

2. For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute.

Quitting without leave before ship is secured.

3. For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Act of disobedience.

4. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceedings four weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days, pay.

Continued disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the Court,* to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Assault on officers.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Combining to disobey.

7. For combining with any other or others of the crew to disobey lawful commands or to neglect duty, or to impede the navigation of the ship or the pro-

* 4 Madr. Ruling xxiii.

gress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Wilful damage and embezzlement.

8. For wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Act of smuggling causing loss to owner.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over, or a copy given to the offender, and his reply, if any, to be also entered.

84. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the official log-book, and shall be signed by the master, and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, the produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

85. Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner, or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

86. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in, any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police-officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board;

and if any such apprehension appears to the Court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same, or causes the same to be made, shall incur a penalty not exceeding two hundred rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

87. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the owner or the agent so requires, instead or committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

88. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave,

or of his having committed any other breach of discipline, and if, during such imprisonment, and before his engagement is at an end, his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

89. In all cases of desertion from any ship registered at a port or place in India while such ship is at any place out of India, the master shall produce the entry of such desertion in the official log book to the person or persons required by the Merchant Shipping Act, 1854, to endorse on the agreement a certificate of such desertion ; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion ;

the master shall forthwith transmit such copies to the shipping-master at the port where such seaman was engagad, who shall, if required, cause the same to be produced in any legal proceeding ; and such copies, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be received as evidence of the entries therein appearing.

Facilities for proving desertion so far as concerns forfeiture of wages.

90. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book ; and thereupon the desertion shall, so far as rela tes to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Costs of procuring imprisonment may, to the extent of thirty rupees, be deducted from wages.

91. Whenever, in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offence by any competent tribunal, and right-

fully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seamen, not exceeding thirty rupees, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

92. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

93. All clothes, effects, wages, and emoluments, which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and subject to such reimbursement, the same shall be paid into the public treasury and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

94. Any question concerning the forfeiture of, or deductions from, the wages of any seaman or apprentice, may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

95. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false state-

ment of his own name, he shall incur a penalty not exceeding fifty rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages, and paid to shipping-master.

96. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, and entry thereof shall be made in the official log-book ; and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act ;

and such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in India, and the offence, and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping-master;

and if, before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person ; and on the return of the ship to India, the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged ;

and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall, for each such offence, incur a penalty not exceeding six times the amount of the fine retained by him : provided that no act of misconduct for which any such fine as afore-

said has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert and harbouring deserters.

97. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall, for each such offence in respect of each such seaman or apprentice, incur a penalty not exceeding one hundred rupees ; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall, for every such seaman or apprentice so harboured or secreted, incur a penalty, not exceeding one hundred rupees.

Penalty for obtaining passage surreptitiously.

98. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding two hundred rupees, or be liable to imprisonment with or without hard labour, for any period not exceeding four weeks.

On change of masters, documents hereby required to be handed over to successor.

99. If during the progress of a voyage the master of any ship registered at any port or place in India is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one thousand rupees ; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

ENQUIRIES INTO WRECKS.

100, 101, 102. [*Repealed and replaced by Act IV. of* 1875.*]

OFFICIAL LOGS.

Official logs to be kept in forms sanctioned by Local Government.

103. An official log-book of every ship registered at any port or place in India, except home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the Local Government ; and such official log may, at the discretion of the master or

* Act IV. of 1875 stands repealed from 1st January 1884 by the Indian Merchant Shipping Act, V of 1883, in which the provisions are re-enacted.

owner, either be kept distinct from the ordinary ship's log, or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

104. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

105. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters (that is to say)—

Convictions

1. Every legal conviction of any member of his crew and the punishment inflicted:

Offences.

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore* required:

Punishments.

3. Every offence for which punishment is inflicted on board and the punishment inflicted:

Conduct, &c., of crew.

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

Illness and injuries.

5. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

Deaths.

6. Every case of death happening on board and of the cause thereof:

Births.

7. Every birth happening on board, with the sex of the infant and the names of the parents:

Marriages.

8. Every marriage taking place on board, with the names and ages of the parties:

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* See sec. 84.

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof :

Quitting ship.

Wages of men entering navy.

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage :

Wages of deceased seamen.

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :

Sale of deceased men's effects.

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it :

Collisions.

13. Every collision with any other ship, and the circumstances under which the same occurred.

Entries how to be signed.

106. The entries hereby required to be made in official log-books shall be signed as follows (that is to say), every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any) ; and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the master and by the mate and some other member of the crew, and entry every of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

107. The following offences in respect of official log-books shall be punishable as hereinafter mentioned (that is to say)—

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall, for each such offence, incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty rupees.

2. Every person who makes, or procures to be made, or assists in making, any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall, for each such offence, incur a penalty not exceeding three hundred rupees.

3. Every person who wilfully destroys, or mutilates, or renders illegible, any entry in any official log-book, or who wilfully makes, or procures to be made, or assists in making, any false or fraudulent entry or omission in any such log-book, shall, for each such offence, be liable to imprisonment, with or without hard labour, for a term not exceeding one year.

Entries in official logs to be received in evidence.

108. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Official logs to be delivered to shiping-master on ship's arrival at port of destination in India.

109. The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the shipping-master before whom the crew is discharged, the official log-book of the voyage ; and the master or owner of every home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in India the official log-book for the preceding half-year ; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required, shall be subject to a penalty not exceeding two hundred rupees.

Official logs to be transmitted to shipping-master in case of transfer of ship and in case of loss.

110. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of section 103 of this Act, the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping-master at the port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall, for each offence, incur a penalty not exceeding one hundred rupees ; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged, the official log book (if any) duly made out to the time of such loss or abandonment, and in default shall, for each offence, incur a penalty not exceeding one hundred rupees.

PROCEDURE, &c.

Depositions to be received in evidence when witnesses cannot be produced.

111. Whenever, in the course of any legal proceedings instituted at any port or place in India before any Judge or Magistrate

or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness* is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same local Government as the port or place where such proceedings are instituted), or any British consular officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or consular officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceeding are instituted.

Proviso.

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate, or consular officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences and recovery of penalties.

112. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII. of 1856,† relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the towns of Calcutta, Madras, and Bombay.

Wages, penalties, &c., payable by master or owner may be levied by distress of ship.

113. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

* Being a merchant-seamen Reg. *v.* Ramcomul Mutter, 1 Hyde, 195, per Norman, J.

† Repealed, as to Calcutta, by Beng. Act IV. of 1866, sec. 2, and as to Madras, by Madr. Act VIII. of 1867, sec. 81.

MISCELLANEOUS.

Act not to extend to certain ships.

114. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any foreign Prince or State; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any foreign Prince or State.

Engagements between masters of foreign ships and lascars or native seamen.

115. When the master of a foreign ship being at any port in in India engages any lascar or other native seaman to proceed to any port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner hereinbefore provided for the making of agreements in the case of foreign going ships, and all the provisions of *Chapter IV of the Indian Merchant Shipping Act* 1883, *and Section 22 of this Act** respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such foreign ship shall give to the shipping-master a bond with the security of some approved person resident in India for an amount calculated at the rate of one hundred rupees for every such seaman, and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

116. The fees prescribed in section 6 of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said section.

Penalty for master of foreign ship illegally engaging native seaman. Power to board suspected ship.

117. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in the two last preceding sections, such master shall be liable to a penalty of one hundred rupees for every such seaman so engaged. It shall be lawful for the shipping-master, by himself or his deputy, to enter on board any foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions to section 30 of this Act shall be applicable in respect of every such ship.

Interpretation-clause.

118. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

* See Act XII of 1891, Second Schedule.

"India." The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India;"

"Local Government." The expression "Local Government" shall mean the person or persons for the time being immediately administering the executive government of any portion of the said territories;

"Home trade ship." The expression "home-trade ship" shall include every ship employed in trading between any ports of the said territories; or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon;

"Foreign-going ship." The expression "foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories nor on the Continent of India nor in the island of Ceylon;

"Master." The word "master" shall include every person (except a pilot) having command or charge of any ship;

"Seaman." The words "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship;

Number. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

Gender. Words importing the masculine gender shall include females;

"Person." The word "person" shall include a corporation.

TABLE A.—(*see section 5*).

Fees to be charged for matters transacted at shipping-offices.

1. Engagement or discharge of crews.

	Rs.	As.	P.
In ships under 100 tons ...	3	0	0
From 100 to 200 „ ...	7	0	0
200 to 300 „ ...	10	0	0
300 to 400 „ ...	12	8	0
400 to 500 „ ...	15	0	0
500 to 600 „ ...	17	8	0
600 to 700 „ ...	20	0	0
700 to 800 „ ...	22	8	0
800 to 900 „ ...	25	0	0
900 to 1,000 „ ...	27	8	0
above 1,000 „ ...	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately, one rupee for each seaman.

TABLE B.—(*see section 6*).

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge

	Rs.	As.	P.
from wages of any mate, purser, engineer, surgeon, carpenter, or steward.	0	12	0
from wages of all others except apprentices	0	8	0
2. In respect of engagements and discharges of seaman, separately, upon each engagement and each discharge ...	0	8	0

RESERVE FORCES.

ACT NO. IV. OF 1888.

RECEIVED THE G.-G'S ASSENT ON THE 2ND MARCH 1888.

An Act to regulate Her Majesty's Indian Reserve Forces.

Whereas it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows:—

Title and commencement.

(1) This Act may be called the Indian Reserve Forces Act, 1888; and

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

Division of Reserve Forces into Active and Garrison Reserves.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

Locality of service of Reserves.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

Power to make rules for regulation of Reserve Forces.

4. The Governor-General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

Liability of Reserve Forces to military law.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

Punishment of certain offence by persons belonging to Reserve Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(*a*) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(*b*) fails without reasonable excuse to comply with any such rule or order, or

(*c*) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

Effect of Act on persons already in the Reserves.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

OFFICIAL SECRETS.

ACT NO. XV. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH OCTOBER 1889.

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information ; It is hereby enacted as follows :

Title, extent and application.

1. (1) This Act may be called the Indian Official Secrets Act, 1889 ; and

(2) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(*b*) to all Native Indian Subjects of Her Majesty without and beyond British India.

Definitions.

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

(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty :

(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance of effect thereof only be communicated :

(3) "document" includes part of a document :

(4) "model" includes design, pattern and specimen :

(5) "sketch" includes any photograph or other mode of representation of any place or thing : and

(6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

Disclosure of information.

3. (1) (*a*) Where a person for the purpose of wrongfully obtaining information—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

(*b*) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(*c*) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

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

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a Foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

Breach of official trust.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in

the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(*a*) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(*b*) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

Restriction on prosecution.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor-General in Council.

INDIAN REGISTRATION ACT.

[*EXTRACTS.*]

ACT NO. III. OF 1877.

RECEIVED THE G.-G's ASSENT ON THE 14TH FEBRUARY 1877.

An Act for the Registration of Documents.

WHEREAS it is expedient to amend the law relating to the registration of documents ; It is hereby enacted as follows :—

Preamble.

PART I.—PRELIMINARY.

Short title.

1. This Act may be called "The Indian Registration Act, 1887" :

Local extent.

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, when the previous sanction of the Governor-General in Council, exclude from its operation ;

Commencement.

And it shall come into force on the first day of April 1887.

Repeal of enactments.

2. On and from that day Act No. VIII of 1871 shall be repealed.

PART XIV.—OF PENALTIES.

Penalty for incorrectly endorsing, copying, translating, or registering documents with intent to injure.

81. Every registering officer appointed under this Act, and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating, or registering of any document presented or deposited under its provisions, endorses, copies, translates, or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for certain other offences.

82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both :—

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not before any officer acting in execution of this Act, in any proceeding or inquiry under this Act;

Making false statements before registering officer.

(*b*) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan;

Delivering false copy or translation.

(*c*) falsely personates another and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act;

False personation.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Abetment of offences under this Act.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Branch Inspector-General of Sindh, the Registrar, or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

Registering officer may commence prosecutions.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class :*

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered "in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts." †

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act." ‡

* The words "Magistrate of the second class" have been substituted for the words "Subordinate Magistrate of the first class" by Act XI. of 1879, sec. 106.

† The words quoted have substituted by Act XII. of 1891.

‡ The third paragraph of sec. 84 has been repealed by Act XII. of 1891.

NOTES UNDER THE INDIAN REGISTRATION ACT.

The notes of an inquiry held before a registering officer are not admissible as evidence of what the prisoners said on that occasion.—11 W. R., 13.

Sec. 29 of the Code of Criminal Procedure, 1882, does not affect the jurisdiction given to a Second-class Magistrate by sec. 83 of the Registration Act, 1877, as amended by Act XII. of 1879.—I. L. R., 7 Madr. 347.

Where the accused was tried for intentionally making a false statement in the course of certain proceedings taken before a Registrar, *held* that, even assuming that such proceedings were taken under sec. 72 of the Registration Act, and not, as they should have been under sec. 73, the appearance of the accused before the Registrar, and his taking no objection to the form of the proceedings, will cure the irregularity for the purposes of a criminal trial under the provisions of the Registration Act; nor, under similar circumstances, will the want of verification of a petition of appeal on the part of the applicant, as provided by sec. 73 of the Act, oust the jurisdiction of the Criminal Court Reg. *v.* James Berry (28 L. J. M. C. 86, 8 Cox. C. 121); Queen *v.* Thomas Fletcher (L. R., 1 C. C. R., 320); Turner *v.* Post-master-General (5 B & Sec. 756); Queen *v.* Hughes (L. R., 4 Q. B. D. 614; 14 Cox C. C. 285); Queen *v.* Smith (L. R., 1 C. C. R., 110; 11 Cox C. C. 10) followed. *Held* also that, except as directed by sec. 82 of Act III of 1877, the Magistrate has no authority, on his own mere motion, to frame a charge against the accused in consequence of evidence given in the course of the trial by the registering officer in respect of certain statements made before him during registration proceedings.—10 Cal. 604.

Under sec. 435 of the Criminal Procedure Code, the High Court has power to go into questions of fact, but it will only exercise this power in cases in which it finds that it will be in the interests of justice to do so. N was charged with having made a false statement before a sub-registrar in identifying K, a person who had executed a mortgage-deed in favour of R, and who was a neighbour of his (N's), as being the person to whom R had agreed to advance the money, the consideration of the mortgage. The false statement consisted in his stating to the sub-registrar that he "knew K as his neighbour." During the hearing of the case it was sought to prove a statement made by R to a third party (R having died previous to the institution of the case) to the effect that N had told him certain facts. A memorandum alleged to be in the handwriting of N was also tendered and received in evidence without any further proof as to its being in N's handwriting than that it bore a similarity to another piece of paper proved to bear his handwriting. *Held* that the statement made by R to the third party was inadmissible and irrelevant, and that the memorandum was wrongly received in evidence.—10 Cal. 1047.

It is not necessary that sanction should be given before instituting a charge under sec. 82 of the Registration Act.—11 Cal. 566.

INDIAN STAMP ACT.

[*EXTRACTS.*]

ACT NO. I. OF 1879.

RECEIVED THE G.-G.'s ASSENT ON THE 17TH JANUARY 1879.

An Act to consolidate and amend the law relating to Stamps.

CHAPTER II.

STAMP DUTIES.

B.—Of Stamps, and the Mode of using them.

Cancellation of adhesive stamps.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty, and which has been executed by any person, shall, when affixing such stamps, cancel the same, so that it cannot be used again ;

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same, so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled, so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

How instruments stamped with impressed stamps are to be written.

12. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument, and cannot be used for, or applied to, any other instrument.

Only one instrument to be on same stamp.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written : provided that nothing in this section shall prevent any endorsement which is duly stamped, or is not chargeable with duty, being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods, the payment or delivery of which is secured thereby.

D.—Of Valuations for Duty.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instrument.

33. Every person having, by law or consent of parties, authority to receive evidence, and

every person in charge of a public office, except an officer of police,

before whom any instrument, chargeable, in his opinion, with duty is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable, and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure :*

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may, from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

Instruments not duly stamped inadmissible in evidence, &c.

34. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having, by law or consent of parties, authority to receive evidence, or shall be acted upon, registered, or authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Proviso.

Provided that—

Instruments admissible on payment of duty and penalty,

1st, any such instrument, not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times

* See Act X. of 1882, sec. 3.

the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under Chapter XII or Chapter XXXVI. of the Code of Criminal Procedure ;

and in certain criminal proceedings.

3rd, when an instrument has been admitted in evidence, such admission shall not, except as provided in section 50, be called in question at any stage of the same suit or proceeding, on the ground that the instrument has not been duly stamped.

Admission of instrument not to be questioned.

35. When the person impounding an instrument under section 33 has, by law or consent of parties, authority to receive evidence, and admits such instrument in evidence upon payment of a penalty as provided by section 34, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

Instruments impounded how dealt with.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

37. When the Collector impounds any instrument under section 33, or receives any instrument sent to him under the second clause of section 35, he shall adopt the following procedure :—

Collector's powers to stamp instruments impounded.

(*a*) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify, by endorsement thereon, that it is duly stamped, or that it is not so chargeable (as the case may be), and shall, upon application made to him in this behalf, deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct ;

(*b*) If the Collector is of opinion that such instrument is chargeable with duty, and is not duly stamped, he shall require the payment of the proper duty or the amount required, to make up the same, together with a penalty of five rupees ; or, if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees, and not more than ten times the amount of such duty or portion, as he thinks fit :

Provided that, when such instrument has been impounded only

because it has been written in contravention of section 12 or section 13, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (*a*) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

Endorsement of instruments on which duty has been paid under sections 34, 37, or 38.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 34, section 37, or section 38, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify, by endorsement thereon, that the proper duty or (as the case may be) the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered, and acted upon, and authenticated as if it had been duly stamped, and shall be delivered, on his application in this behalf, to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34 shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary, and has not cancelled such certificate:

Provided also that nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.*

Prosecution for offence against stamp-law.

40. The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument:

Proviso.

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

* See Act XIV. of 1882, sec. 3.

CHAPTER V.

REFERENCE AND REVISION.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

50. When any Court in the exercise of civil or revenue jurisdiction makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 34, the Court to which appeals lie from, or references are made by, such first-mentioned Court, may, of its own motion, or on the application of the Collector, take such order into consideration ; and, if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 34, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person, in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded, or is otherwise in the possession of such Court, shall also send him such instrument ; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 39, or in section 40, prosecute any person for any offence against the stamp law which the Collector considers him to have committed in respect of such instrument:

Provided that no such prosecution shall be instituted where the amount (including duty and penalty), which, according to the determination of such Court, was payable in respect of the instrument under section 34, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty :

Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 39.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Powers to make rules relating to sale of stamps.

55. The Local Government, subject to the control of the Governor-General in Council, may make rules consistent herewith for regulating the supply and sale of stamps and stamped papers, the persons by whom alone such

sale is to be conducted, and the duties and remuneration of such persons.

Obligation to give receipts in certain cases.

58. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque, or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note, or property, give a duly stamped receipt for the same.

CHAPTER VIII.

CRIMINAL OFFENCES AND PROCEDURE.

Penalty for executing, &c., instrument not duly stamped.

61. Any person drawing, making, issuing, endorsing, or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying, or receiving payment of, or in any manner negotiating, any bill of exchange, cheque, or promissory note without the same being duly stamped,

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall, for every such offence, be punished with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 34, section 37, or section 50, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument, upon the person who paid such penalty.

Penalty for failure to cancel adhesive stamp.

62. Any person required by section 11 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

63. Any person who, with intent to defraud the Government of any duty,

(*a*) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth, or

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances,

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

Penalty for refusal to give receipt and for devices to evade duty on receipts.

64. Any person who, being required under section 58 to give a receipt, refuses or neglects to give the same, or who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for not making out policy.

65. Every person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance, and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or

(*b*) makes, executes, or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

or making, &c., any policy not duly stamped.

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

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

66. And person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for post-dating bills, &c., and

67. Whoever, with intent to defraud the Government of duty, draws, makes, or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made, and who ever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same,

for other devices to defraud the revenue.

and whoever, with the like intent, practises, or is concerned in, any act, contrivance, or device not specially provided for by this Act or any other law for the time being in force,

shall be punished with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

68. Any person appointed to sell stamps who disobeys any rule made under section 55, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

69. No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869,* or any Act there by repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue Authority, or any officer authorized by it in this behalf, may stay any such prosecution or compound any such offence.

Jurisdiction of Magistrates.

70. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

71. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as in any district or presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Operation of other laws not barred

72. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it :

Provided that no person shall be punished twice for the same offence.

NOTES UNDER THE INDIAN STAMP ACT.

The mere engrossing of a document, requiring a stamp, on unstamped paper, constitutes no offence under the Stamp Act (X. of 1862).—1 Bom. H. C. R., 37.

The refusal to give a stamped receipt for money paid not being in itself an offence at law, to make a false charge against a party of refusing to give such a stamped receipt is not an indictable offence.—1 Bom. H. C. R., 92.

Held that the mere engrossing of a deed on stamped paper does not constitute an offence under sec. 3 of Act X. of 1862 ; nor does the signing such a deed as a witness.—2 Bom. H. C. R., 129.

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* Repealed by this Act.—See sec. 2 and Sch. III.

The passing off a one-anna stamp as a one-rupee stamp is not counterfeiting a one rupee stamp.—2 W. R., 65.

Conviction and sentence for an offence under the Stamp Act reversed on a reference by a Sessions Judge, as the proceedings of the Magistrate who tried the case were highly irregular.—3 Bom. H. C. R., 34.

The words in sec. 3 of Act X. of 1862, "unless in any case in which a higher penalty is imposed," and "not exceeding," apply both to the penalty of Rs. 100 and to one higher than ten times the value of the omitted stamp. Attesting witnesses, and persons who draft documents and note the fact with their signatures at the foot, do not come within the words "make, execute, sign, or be a party to," used in the section, and are therefore not punishable under it.—3 M. H. C. R., Ap. 27.

Conviction and sentence under sec. 3 of Act X. of 1862 (Stamp Act) reversed, because no complaint had been made before the trying Magistrate. A memorandum, under the signature of the Collector, sanctioning the prosecution, cannot be accepted in the place of a complaint so as to authorize the issuing of a summons.—5 Bom. H. C. R., 48.

A complaint preferred by a Munsif under sec. 168 of the Criminal Procedure Code need not, thought it do not bear the seal of the Munsif's Court, be on stamped paper.—5 Bom. H. C. R., 104.

A prosecution, under sec. 3 of Act X. of 1862, not having been authorized by the Collector of the stamp-revenue of the district, or any other officer specially authorized by the Government in that behalf, is, under sec. 52 of that Act, altogether irregular.—2 N.-W. P. H. C. R., 188.

Sec. 409 of the Penal Code does not limit the mode in which a trust arises whether by specific order, or by reason of its being part of the proper duty of a public functionary. Where, therefore, it was proved that the head clerk of an office entrusted the management of stamps, with the knowledge and sanction of his superiors, to one of his assistants, the latter was held to be guilty of criminal misappropriation by a public servant within the meaning of sec. 409 when he made away with the stamps.—13 W. R., 77.

Intention to evade payment of stamp duty is not an essential ingredient in the offence described by sec. 29 of Act XVIII. of 1869. *Held* that the donor under a deed insufficiently stamped was properly convicted, but that the donee had committed no offence under the section.—6 M. H. C. R., Ap. 5.

The exemption of the Government of India, dated the 19th September 1870, cannot be extended to copies of the statement of evidence and grounds of conviction. Persons desirous of obtaining copies of such documents for the purpose of appeal must furnish stamped paper on which the copies are to be written.—6 M. H. C. R., Ap. 12.

The illegal seizure and detention of cattle, to which sec. 14 of Act III. of 1857 refers, is not an "offence" within the meaning of sec. 31 and sch. 2, art. 1, cl. *b*, of the Court-fees Act (VII. of 1870). Complaints of such illegal seizure and detention do not require a stamp. If such complaints be stamped, it is not competent for the Court to direct that the accused shall repay the amount of such stamp to the complainant.—3 Bom. H. C. R., 22.

The accused, being entrusted to put a proper amount of stamps on a letter, and return such as might not be required, did not return them, but misappropriated stamps to the value of two annas, and was convicted and punished under sec. 49 of the Post-office Act (XIV. of 1866), instead of under the Penal Code for criminal breach of trust. As the accused had not

been sentenced to a larger amount of punishment than could have been awarded for criminal breach of trust, nor shown to have been prejudiced by the error of convicting him under the Post-office Act, the High Court could not, under sec. 426, Code of Criminal Procedure, reverse or alter the sentence, pointing out at the same time that this was one of those cases in which it was a mistake to look at the smallness of the amount misappropriated rather than to the gravity of the offence.—17 W. R., 50.

By sec. 6 of Act I. of 1868 an offence committed under sec. 3 of Act X. of 1862, when that enactment was in force, is still an offence, and may be tried under that enactment. By force of sec. 3, cl. I, of Act I. of 1868, the mere repealing of sec. 2 and sch. 3 of Act XVIII. of 1869 by Act XIV. of 1870 did not *per se* revive the repealed portions of Act X. of 1862.—7 M. H. C. R., Ap. 8.

The accused was prosecuted under Act XVIII. of 1869, sec. 29, for executing a document on insufficiently stamped paper. The document recited that, "whereas A and B have sold to me 2 gandas 3 cowries of land under a kobala, dated the 9th of Jeyt 1283, in lieu of a consideration of Rs. 695, and whereas I have returned to the vendors in all 4 cottas of land worth about Rs. 25, and whereas in lieu of the said land the said vendors have given me 4 cottas of zerait land held by them, now I or my heirs shall have no objection or contest whatever in regard to the mutual exchange of lands between the vendors and me, the purchaser; hence I have executed this chitti by way of conveyance or deed of exchange, which may be of service when required." This document bore a stamp of eight annas, and it was executed only by the accused, and presented by him for registration. *Held* that the document was an instrument of transfer within the meaning of art. 38, sch. 2, Act XVIII. of 1869. *Held* also that a Magistrate is bound, for the purpose of ascertaining whether any and what penalty should be imposed, to consider whether a person prosecuted under sec. 29, Act XVIII. of 1869, had any intention to defraud by evading payment of stamp-duty. —I. L. R., 2 Cal. 399.

A Magistrate, who has been authorized by the Collector of a district under sec. 43 of the Stamp Act to prosecute offenders against the stamp-laws, is not competent also to try persons whom he prosecutes. The Collector should appoint some person other than a Magistrate to conduct the prosecution.—3 Cal. 622 : 2 C. L. R., 179.

The Collector, being primarily responsible for the prosecution of offences against the Stamp Acts of 1869 and 1879, should not himself try, as a Magistrate, a person accused of an offence against either of those Acts. —2 Al. 806.

Six persons acted as arbitrators in a dispute between two of their fellow-villagers, and delivered their award in writing. Subsequently the award was filed in evidence by one of the disputants in the civil suit in the Court of the Munsif of Cuttack, who, on the ground that the document bore no stamp, impounded it, and forwarded it to the Collector, who ordered the writer to be prosecuted. The Deputy Magistrate, to whom the case was referred, summoned the six persons who had acted as arbitrators, and fined them Rs. 25 each. On a reference to the High Court by the District Magistrate, *held* that the conviction was illegal, and should be set aside; *held* also that the procedure laid down in sec. 37 of the Stamp Act must be strictly followed, and that before a prosecution can be instituted under sec. 40, the Collector is bound to form an opinion as to whether the offence was committed with the intention of evading payment of the proper duty.—8 Cal. 259; 10 C. L. R., 365.

The sale of Court-fee stamps without a license is not an offence.—4 Al. 216.

Sec. 51, ch. 6 of Act I. of 1879, enacts that, "subject to such rules as may be made by the Governor-General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned," &c. According to a rule made with reference to that section, "the Collector may require every person claiming a refund under ch. 6 of the said Act, or his duly authorized agent, to make an oral deposition on oath," &c. *Held*, therefore, that the Collector himself is the officer, and no other, to whom power is given by law to make inquiries into applications for allowances for spoiled stamps, to take evidence on oath in reference thereto, and to grant or refuse such applications, and he cannot delegate his authority in the matter. *Held*, therefore, where a person had applied for a refund under ch. 6 of Act I. of 1879, and the Collector made over the application for inquiry to a Deputy Collector, that the Deputy Collector was not entitled to put the witnesses produced by the applicant on their oaths, and consequently, in reference to the statements of such witnesses, no charge under sec. 181 or sec. 193 of the Penal Code was sustainable.—5 Al. 17.

A executed to B on plain paper an instrument which should have been executed on a paper bearing a four anna stamp. B filed a suit against A in the Civil Court, and produced the instrument in evidence. The Civil Court called upon A to pay the duty and penalty, and, on B's refusal to pay, impounded the instrument, and sent it to the Collector. The Collector, concurring with the opinion of the Civil Court, sanctioned the prosecution, in the Criminal Court, of both A and B, but without requiring the payment of the duty and penalty. The prosecution resulted in the conviction of A under sec. 61 of the Stamp Act (I of 1879), and of B of abetment of A's offence. *Held* that the convictions were illegal, inasmuch as the Collector failed to allow an opportunity of paying the duty and penalty. *Held* further that mere receipt of an unstamped instrument did not constitute the offence of an abetment of the execution of such an instrument.—7 Bom. 82.

The term "accepting" used in sec. 61 of the Stamp Act, 1879, does not mean "receiving," but "executing as acceptor." To receive a promissory note not duly stamped, and put it in suit, does not constitute an offence under sec. 61 of the Stamp Act, 1879.—7 Madr. 71.

A Collector is not bound to hold a formal inquiry, or to record proceedings, before directing a prosecution under sec. 40 of the Stamp Act, 1879, for an offence against the stamp law. The law does not require intention to be proved as a part of such offence.—7 Madr. 537.

Prosecution for an offence committed in contravention of sec. 64 of the Stamp Act (I. of 1879) cannot be instituted unless with the previous sanction of the Collector under sec. 69 of the same Act.—9 Bom. 27.

An entry made by a creditor in the khatta-book of the debtor, and signed by him for the payment of a sum of money in discharge of a debt, is a "receipt" within the meaning of sec. 3, cl. 17, of the Stamp Act, and as such must be stamped under art. 52, sch. i. of that Act.—11 Cal. 267.

The first paragraph of sec. 11 of the General Stamp Act (I. of 1879) applies to cases in which the instrument chargeable with duty may be stamped after execution. A bill for the monthly salary of a Government official was sent to the Treasury for payment, when it was discovered that the one-anna receipt stamp affixed thereto was not cancelled, and a prosecution was

therenpon instituted by the Collector against the official in question, who had executed the instrument, under sec. 62 of the General Stamp Act. The accused was convicted under that section by the Deputy Magistrate, and the District Magistrate on appeal, holding that, upon the evidence, the conviction should have been for abetment, and not for the principal offence, altered the finding accordingly to a conviction under sec. 109 of the Penal Code, read with secs. 11 and 62 of the General Stamp Act. *Held* that the receipt to the salary-bill in question was an instrument which was required to be stamped before or at the time of execution, and was not of the kind contemplated by the first paragraph of sec. 11 of the General Stamp Act; that consequently there was no abetment of any offence under secs. 11 and 62 of the Act; that the offence which appeared to have been committed was one under the 2nd paragraph of sec. 61; but that, no sanction having been given by the Collector under sec. 69 for a prosecution under sec. 61, it was not advisable to interfere further than by setting aside the conviction and sentence.—9 Al. 210.

A debtor, having paid a sum of money to his creditor accepted from the latter an unstamped receipt, promissing to affix a stamp thereto. *Held* that this did not constitute abetment, within the meaning of sec. 107 of the Penal Code, of the offence of making an unstamped receipt. Empress *v.* Bahadur Singh (Weekly Notes, 1885, p. 30) distinguished. Empress *v.* Janki (I. L. R., 7 Bom. 82) and Empress *v.* Bhairon (Weekly Notes, 1884, p. 37) referred to.—8 Al. 18.

M acknowledged receipt of a cheque for Rs. 100 by letter. The letter was not stamped. *Held* that M was properly convicted under sec. 61 of the Indian Stamp Act, 1879.—11 Madr. 329.

A District Judge impounded a partition-deed produced before him, and forwarded it to the Collector under sec. 35 of the Stamp Act, 1879, being of opinion that the executant of the deed had committed an offence under sec. 63. The Collector under sec. 69 sanctioned the prosecution of the executant, who was convicted by the Magistrate of an offence under sec. 63 of the Act. On appeal the Sessions Court acquitted him, on the ground that the Collector had not complied with sec. 37 (*b*) or sec. 40 of the Act. *Held* that the acquittal was wrong. Empress *v.* Dwarkanath Chowdhry (I. L. R., 2 Cal. 399), Empress *v.* Soddanund Mahanty (I. L. R., 8 Cal. 259), Empress *v.* Janki (I. L. R., 7 Bom. 82), considered.—12 Madr. 231.

COURT FEES ACT.

[*EXTRACTS.*]

ACT NO. VII. OF 1870.

CHAPTER III.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

Fees on documents filed, &c., in Mofussil Courts or in public offices.

6. Except in the Courts hereinbefore mentioned, no document of any of the kind specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedule as the proper fee for such document.

Written examinations of complainants.

18. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than offence for which Police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Exemption of certain documents.

19. Nothing contained in this Act shall render the following documents chargeable with any fee :—

xiv. First application (other than a petition containing a Criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

xv. Bail bonds in Criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.

xvi. Petition, application, charge, or information respecting any offences, when presented, made or laid to or before a Police Officer, or to or before the Heads of Villages or the Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

xviii. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.

CHAPTER VI.

MISCELLANEOUS.

Repayment of fees paid on application to Criminal Courts.

31. i. Whenever an application or petition containing a complaint or charge of an offence other than offence for which Police officers may arrest without warrant, is presented to a Criminal Court, the Court, if it convict the accused person, shall in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

ii. In the case mentioned in section eighteen, the Court, if it convict the accused person, shall in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for examination.

iii. When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

iv. All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

Admission in Criminal cases of documents for which proper fee has not been paid.

33. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section four or section six shall be deemed to prohibit such filing or exhibition.

34.* (1) The Local Government may, from time to time, make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

* Sec. 34 has been substituted for the original by Act XII of 1891.

SCHEDULE I.

Ad valorem Fees.

NUMBER.		PROPER FEE.
9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or office, or from the office of any chief officer charged with the executive administration of a division.	For every three hundred and sixty words or fraction of three-hundred and sixty words. ...	Eight annas.

SCHEDULE II.

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition.	(*a*).—When presented to any officer of the Customs of Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject matter of such application relates exclusively to those dealings ;	
	or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.	One anna.
	(*b*).—When containing a complaint or charge of any offence other than an offence for which Police officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court ;	Eight annas.

SCHEDULE II.—(*continued*).

Fixed Fees.

NUMBER.		PROPER FEE.
	or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;	Eight annas.
	or to deposit in Court revenue or rent ;	
	or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.	
10. Mukhtarnama or Vakalatnama.	(*a*) to any Civil or Criminal Court other than a High Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (*b*) and (*c*) of this Number ...	Eight annas.

NOTIFICATIONS AND ORDERS, ETC.

Punching.

1. The attention of all Courts and officers having to deal with Court Fees' Stamps is called to the importance of punching out from the stamps the figure-head, and destroying the piece punched out, before taking action upon the documents to which the stamps may be attached. (14th February 1874.)

Remission.

2. In exercise of the power conferred by section 35 of the Court Fees' Act, VII of 1870, the Governor-General in Council is pleased to remit the fees leviable on the undermentioned documents :—

(1.) Copy or translation of the charge furnished to an accused person under section 199 of the Code of Criminal Procedure.

(2.) Copies of depositions furnished to accused persons under section 201 of the said Code.

(3.) Copy of the judgment or order passed by a Criminal Court and of a Judge's charge to the Jury, furnished under section 276 of the said Code to any person affected by such judgment or order, provided that such person is in jail or the Court, for some special reason, sees fit to grant such copy free of expense.

(4.) Copies of the examination of witnesses given to accused person under section 357 of the said Code.

(5.) Copies of charges given to accused persons under section 446 of the said Code.

(6.) Copies of orders of maintenance given under section 538 of the said Code, (6th June 1873.)

INDIAN LIMITATION ACT.

[*EXTRACTS.*]

ACT NO. XV. OF 1877.

Sections and Schedule of the above Act applicable to Criminal Procedure.

Preamble.

WHEREAS it is expedient to amend the law relating to the limitation of suits, appeals and certain applications to Courts; and whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Indian Limitation Act, 1877 :"

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(*a*) to suits under the Indian Divorce Act, or

(*b*) to suits under Madras Regulation VI of 1831;

Commencement.

And it shall come into force on the first day of October 1877.

Repeal of Acts.

2. On and from that they the Acts mentioned in the first Schedule hereto annexed shall be repealed to the extent therein specified.

References to Act IX of 1871.

But all references to the Indian Limitation Act, 1871, shall be read as if made to this Act.

Dismissal of suits, &c., instituted, &c., after period of limitation.

4. Subject to the provisions contained in sections five to twenty-five (inclusive), every suit instituted, appeal presented, and applications made after the period of limitation prescribed therefor by the second schedule hereto annexed shall been dismissed, although limitation has not been set up as a defence.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day when the Court re-opens;

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause

for not presenting the appeal or making the application within such period.

Special and local laws of limitation.

6. When, by any special or local law now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal or application, nothing herein contained shall affect or alter the period so prescribed.

Exclusion of day on which right to sue accrues.

12. In computing the period of limitation prescribed for any suit, appeal or application the day from which such period is to be reckoned shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

SCHEDULE.

DESCRIPTION OF APPEALS AND APPLICATION.

Sec.	Description of appeal.	Period of limitation.	Time when period begins to run.
150	Under the Code of Criminal Procedure from a sentence of death passed by a Session Judge.	Seven days.	The date of the sentence.
154	Under the Code of Criminal Procedure to any Court other than a High Court.	Thirty days.	The date of the sentence or order appealed against.
155	Under the same Code to a High Court except in the cases provided for by No. 150 and No. 157.	Sixty days.	Do.
157	Under the Code of Criminal Procedure for a judgment of acquittal.	Six months.	The date of the judgment appealed against
	Description of Application.		
178	Applications for which no period of limitation is provided elsewhere in this Schedule; or by the Code of Civil Procedure, Section 230.	Three years.	When the right to apply accrues.

PROTECTION OF JUDICIAL OFFICERS.

ACT NO. XVIII. OF 1850.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH APRIL 1850.

An Act for the protection of Judicial Officers.

For the greater protection of Magistrates and others acting judicially, it is enacted as follows :—

Judge, &c., not liable for judicial acts provided they are done in good faith.

1. No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of : and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute if within the jurisdiction of the person issuing the same.

INDIAN FOREST ACT.

ACT NO. VII. OF 1878.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1878.

An Act to amend the law relating to forests, the transit of forest-produce, and the duty-leviable on timber.

Preamble.

WHEREAS it is expedient to amend the law relating to forests, the transit of forest-produce, and the duty leviable on timber; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Forest Act, 1878:"

Commencement.

It shall come into force at once in the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the Lower Provinces,* the North-Western Provinces, and the Panjab, (except the District of Hazara†), and the Chief Commissioners of Oudh, the Central Provinces, and Assam.

Extension.

And any other Local Government may, from time to time, with the previous sanction of the Governor-General in Council, extend, by notification in the local official Gazette, this Act to all or any of the territories for the time being under its administration.

Repeal of enactments.

On and from the date on which this Act comes into force in any of the said territories, the enactments mentioned in the schedule hitherto annexed shall be repealed in such territories. But all rules made under or validated by any of the said enactments, and in force at the date of such repeal, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Interpretation clause.

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

"Forest-officer" means any person whom the Governor-General in Council, or the Local Government, or any officer empowered by the Governor-General in Council or the Local Government in this behalf, may, from time to time, appoint by name, or as holding an office, to

* See *Gazette of India*, Oct. 22, 1881, Pt. I., p. 504.

† See the Hazara Forest Regulations of 1873, 1874, and 1879.

carry out all or any of the purposes of this Act, or to do anything required by this Act or any rule made under this Act to be done by a Forest-officer :

"Tree" includes palms, bamboos, stumps, brushwood, and canes :*

"Timber" includes trees when they have fallen or have been felled, and all wood, whether cut up, or fashioned or hollowed out for any purpose or not :*

"Forest-produce" includes—

(*a*) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, and myrabolams, and

(*b*) the following, when found in, or brought from, a forest, that is to say :—

(i) tress and leaves, flowers and fruits, and all otherparts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds, and moss), and all parts or produce of such plants,

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-oil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries)*:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act :

"Cattle" includes elephants, camels, buffaloes, horses, mares geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids :

"River" includes streams, canals, creeks, and other channels, natural or artificial.

CHAPTER II.

OF RESERVED FORESTS.

Power to reserve forests.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

* The definitions of "tree," "timber," and "forest-produce," have been substituted by Act V of 1890, sec. 2.

Notification by Local Government.

4. Whenever it is proposed to constitute any land a reserved forest, the Local Government may publish a notification in the local official Gazette—

(*a*) declaring that it is proposed to constitute such land a reserved forest ;

(*b*) specifying as nearly as possible the situation and limits of such land ;* and

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature, and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce, and to deal with the same as provided in this chapter.

Explanation.—For the purpose of clause (*b*) of this section, it shall be sufficient to describe the limits of the forest by roads, rivers, ridges, or other well-known or readily intelligible boundaries.

The officer appointed under clause (*c*) of this section shall ordinarily be a person not holding any forest-office except that of Forest-Settlement-officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest-Settlement-officer under this Act.

Bar of accrual of forest-rights.

5. During the interval between the publication of such notification and the date fixed by the notification under section 19, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the former notification was issued ; and no fresh clearings for cultivation or for any other purpose shall be made in such land, "except in accordance with rules prescribed by the Local Government."†

Proclamation by Forest-Settlement-officer.

6. When notification has been issued under section 4, the Forest-Settlement-officer shall publish in the language of the country, in every town and village in the neighbourhood of the land comprised therein, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest ;‡

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* Cl. *b* of sec. 4 has been substituted by Act V. of 1890, sec. 3.

† The words quoted have been added by Act V. of 1890, sec 4.

‡ Cl. *a* of sec. 6 has been substituted by Act V. of 1890, sec. 5.

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or 5 either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

Enquiry by Forest settlement-officer.

7. The Forest-Settlement-officer shall take down in writing all statements made under section 6, and shall, at some convenient place, enquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or 5, and not claimed under section 6, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Powers of Forest-settlement-officer.

8. For the purposes of such enquiry, the Forest-Settlement officer may exercise the following powers, that is to say :—

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same ; and

(*b*) the powers of a Civil Court in the trial of suits.

Extinction of rights.

9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by enquiry under section 7, shall be extinguished, unless before the notification under section 19 is published the person claiming them satisfies the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

Treatment of claims relating to pratice of shifting cultivation.

9A.* (1) In the case of a claim relating to the practice of shifting cultivation, the Forest-Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the pratice is allowed or regulated, and submit the statement to the Local Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, the Local Government may make an order permitting or prohibiting the practice wholly or in part.

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* Sec 9A has been inserted by Act V of 1890, sec. 6.

(3) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(*a*) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(*b*) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction, and abolition by the Local Government.

Power to acquire land over which right is claimed.

10. In the case of a claim to a right in or over any land, other than a right of way or pasture, or to forest-produce or a watter-course, the Forest-Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

If such claim is admitted in whole or in part, the Forest-Settlement-officer shall either (1) exclude such land from the limits of the proposed forest ; or (2) come to an agreement with the owner thereof for the surrender of his right ; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(*a*) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870 ;

(*b*) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act ;

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and

(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of pasture or to forest-produce.

11. In the case of a claim to rights of pasture or to forest produce, the Forest-Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

12. The Forest-Settlement-officer, when passing any order under section 11, shall record, so far as may be practicable,—

Record to be made by Forest-Settlement-officer.

(a) the name, father's name, caste, residence, and occupation of the person claiming the right;

(b) the designation, position, and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

13. If the Forest-Settlement-officer admits in whole or in part any claim under section 11, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorized to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Record where he admits claim.

14. After making such record, the Forest-Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted. For this purpose the Forest-Settlement-officer may—

Exercise of rights admitted.

(a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or

(b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

(c) record an order, continuing to such claimants a right of pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may from time to time be prescribed by the Local Government.

15. In case the Forest-Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement un-

Commutation of rights.

der section 14 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government may from time to time prescribe in this behalf), commute such rights, either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Appeal from order passed under sec. 10, 11, 14, or 15.

16. Any person who has made a claim under this Act, or any forest-officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest-Settlement-officer under section 10, 11, 14, or 15, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner, as the Local Government may, from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders:

Provided that, if the Local Government establishes (as it is hereby empowered to do) a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government, such appeals shall be presented to such Court.

Appeal under section 16.

17. Every appeal under section 16 shall be made by petition in writing, and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

If the appeal be to an officer appointed under section 16, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land revenue.

If the appeal be to the Forest-Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

Pleaders.

18. The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead, and act on its or his behalf before the Forest-Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

19. When the following events have occurred (namely):—

(*a*) the period fixed under section 6 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer; and

(*b*) if such claims have been made, and the period limited by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and

(c) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Local Government may publish a notification in the local official Gazette, specifying definitely, according to boundary-marks erected, or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Publication of translation of such notification in neighbourhood of forest.

20. The forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in every town and village in the neighbourhood of the forest.

Power to revise arrangement made under section 14 or 17.

21. The Local Government may, within five years from the publication of any notification under section 19, revise any arrangement made under section 14 or 17, and may, for this purpose, rescind or modify any order made under section 14 or 17, and direct that any one of the proceedings specified in section 14 be taken in lieu of any other of such proceedings, or that the rights admitted under section 11 be commuted under section 15.

No right acquired over reserved forest, except as here provided.

22. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant of contract in writing made by or on behalf of the Government or of some person in whom such right was vested when the notification under section 19 was issued.

Rights not to be alienated without sanction.

23. Notwithstanding anything contained in section 22, no right continued under section 14, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage, or otherwise, without the sanction of the Local Government:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered, except to such extent as may have been admitted in the order recorded under section 13.

Power to stop ways and water-courses in reserved forests.

24. The forest-officer may, from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest: Provided that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the forest-officer in lieu thereof.

Acts prohibited in such forests.

25. Any person who—

(*a*) makes any fresh clearing prohibited by section 5, or

(*b*) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning in such manner as to endanger such a forest;*

or who, in a reserved forest,—

(*c*) kindles, keeps, or carries any fire except at such seasons as the forest-officer may from time to time notify in this behalf;

(*d*) trespasses or pastures cattle, or permits cattle to trespass;

(*e*) causes any damage by negligence in felling any tree, or cutting or dragging any timber;

(*f*) fells, girdles, lops, taps, or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same;

(*g*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(*h*) clears or breaks up any land for cultivation or any other purpose; or,

(*i*) in contravention of any rules which the Local Government may from time to time prescribe, "kills or catches elephants,"† hunts, shoots, fishes, poisons water, or sets traps or snares,

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with

* Cl. *b* of sec. 25 has been substituted by Act V. of 1890, sec. 7.

† The words quoted are repealed in every local area to which the Elephants' Preservation Act (VI. of 1879) extends or is extended.—See sec. 2 of that Act.

both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Nothing in this section shall be deemed to prohibit (*a*) any act done by permission in writing of the forest-officer, or under any rule made by the Local Government; or (*b*) the exercise of any right continued under section 14, clause (*c*), or created by grant or contract in writing made by or on behalf of Government under section 22.

Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest, or any portion thereof, the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Power to declare forest no longer reserved.

26. The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

Formation of village-forests.

27. The Local Government may, from time to time, assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.

The Local Government may, from time to time, make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

All provisions of this Act relating to reserved forests shall (so far as they are consistent with the rules so made) apply to village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

"Protected forests."

28. The Local Government may, from time to time, by notification in the local official Gazette, declare the provisions of this chapter applicable to any forest-

land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled.

The forest-land and waste-land comprised in any such notification shall be called a "protected forest."

No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient.

Every such record shall be presumed to be correct until the contrary is proved:

Provided that, if in the case of any forest-land or waste-land, the Local Government thinks that such enquiry and record are necessary, but that they will occupy such length of time as that the rights of Government will in the meantime be endangered, the Local Government may (pending such enquiry and record) declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

Power to issue notification—

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

reserving trees,

(*a*) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

closing forests,

(*b*) declare that a portion of such forest be closed for such term not exceeding twenty years as the Local Government thinks fit, and that the rights of private persons (if any) over such portion shall be suspended during such term: Provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed;

prohibiting collection of forest-produce, &c.,

(*c*) prohibit, from a date fixed as aforesaid the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal, of any forest-produce, in any such forest, and the

and breaking up or clearing of land.

breaking up or clearing for cultivation, for building, for herding cattle, or for any other purpose, any land in any such forest; and

(*d*) alter or cancel such declaration or prohibition.

Publication of translation of such notification in neighbourhood.

30. The Collector or Deputy Commissioner of the district shall cause a translation, into the language of the district, of every notification issued under section 29, to be affixed in a conspicuous place, in every town and village in the neighbourhood of the forest comprised in the notification.

Power to make rules for protected forests.

31. The Local Government may from time to time make rules to regulate the following matters :—

(*a*) the cutting, sawing, conversion, and removal of trees and timber, and the collection, manufacture, and removal of forest-produce, from protected forests ;

(*b*) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber, or other forest-produce for their own use, and the production and return of such licenses by such persons ;

(*c*) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licenses by such persons ;

(*d*) the payments (if any) to be made by the persons mentioned in clauses (*b*) and (*c*) of this section for permission to cut such trees, or to collect and remove such timber or other forest-produce ;

(*e*) the other payments (if any) to be made by them in respect of such trees, timber, and produce, and the places where such payments shall be made ;

(*f*) the examination of forest-produce passing out of such forests ;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests ;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section 29 ;

(*i*) the cutting of grass and pasturing of cattle in such forests ;

(*j*) "killing or catching elephants,"* hunting, shooting, fishing, poisoning water, and setting traps or snares in such forests ;

(*k*) the protection and management of any portion of a forest closed under section 29 ;

(*l*) the exercise of rights referred to in section 28.

* The words quoted or repealed in every local area to which the Elephants' Preservation Act (VI. of 1879) extends or is extended.—See sec. 2 of that Act.

Penalties for acts in contravention of notification under section 29.

32. Any person who commits any of the following offences :—

(*a*) fells, girdles, lops, taps, or burns any tree reserved under section 29, or strips off the bark or leaves from, or otherwise damages, any such tree ;

(*b*) contrary to any prohibition under section 29, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

(*c*) contrary to any prohibition under section 29, breaks up or clears for cultivation or any other purpose any land in any protected forest ;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section 29, whether standing, fallen, or felled, or to any closed portion of such forest ;

(*e*) leaves burning any fire kindled by him in the vicinity of any such trees or closed portion ;

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(*g*) permits cattle to damage any such tree;

(*h*) infringes any rule made under section 31;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Nothing in this chapter to prohibit acts done in certain cases.

33. Nothing in this chapter shall be deemed to prohibit any act done with the permission in writing of the forest-officer or in accordance with rules made under section 31, or (except as regards any portion of a forest closed under section 29) in the exercise of any right recorded under section 28.

CHAPTER V.

FORESTS UNDER CONSERVANCY ADMINISTRATION WHEN THIS ACT COMES INTO FORCE.

Forests under conservancy administration when this Act comes into force.

34. Within twelve months from the date on which this Act comes into force in the territories administered by any Local Government, such Government shall, after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under

its executive control for purposes of forest conservancy, determine which of such lands, (if any) can, according to justice, equity, and good conscience, be classed as reserved forests or protected forests under this Act, and declare, by notification in the local official Gazette, any lands so classed to be reserved or protected forests, as the case may be :

Provided that such declaration shall not affect any rights of the Government or private persons to or over any land or forest-produce in any such forest, which have, previous to the date of such declaration, been enquired into, settled, and recorded in a manner which the Local Government thinks sufficient :

Provided also that, if any such rights have not, on such date, been so enquired into, settled, and recorded, the Local Government shall direct that the same shall be enquired into, settled, and recorded in the manner provided by this Act for reserved or protected forests, as the case may be : and, until such enquiry, settlement, and record have been completed, no such declaration shall abridge or affect such rights.

CHAPTER VI.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

Protection of forests for special purposes.

35. The Local Government may, from time to time, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land—

(*a*) the breaking-up or clearing of land for cultivation ;

(*b*) the pasturing of cattle ;

(*c*) the firing or clearing of the vegetation ; when such regulation or prohibition appears necessary for any of the following purposes :—

First.—For protection against storms, winds, rolling stones, floods, and avalanches ;

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys of hilly-tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones, or gravel ;

Third.—For the maintenance of a water-supply in springs, rivers, and tanks ;

Fourth.—For the protection of roads, bridges, railways, and other lines of communication ;

Fifth.—For the preservation of the public health ;

and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste land, such work as it thinks fit:

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to shew cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any), and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

Power to assume management of forests.

36. In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

The net profits (if any) arising from the management of such forest or land shall be paid to the said proprietor.

Expropriation of forests in certain cases.

37. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. The owner of any land, or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(*a*) that such land be managed on their behalf by the forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or

(*b*) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof, and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

CHAPTER VII.

OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE.*

Power to impose duty on timber.

39. The Local Government, with the previous sanction of the Governor-General in Council, may levy a duty in such manner, at such places, and at such rates, as it may from time to time prescribe by notification in the local official Gazette on all timber "or other forest-produce,"†

(*a*) which is produced in British India, and in respect of which the Government has any right;

(*b*) which is brought from any place beyond the frontier of British India.

Power to fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time, fix, by like notification, the value on which such duty shall be assessed.

All duties on timber "or other forest-produce,"† which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

Limit not to apply to purchase-money or royalty.

40. Nothing in this chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER VIII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest-produce.

41. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government,

* This heading has been substituted by Act V. of 1890, sec. 8, sub-sec. 1.

† The words quoted have been inserted by Act V. of 1890, sec. 8, sub-sec. 2.

and it may from time to time make rules to regulate the transit of all timber and other forest-produce.

Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber "or other"* forest-produce may be imported, exported, or moved into, from, or within British India ;

(*b*) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass ;

(*c*) provide for the issue, production, and return of such passes, and for the payment of fees therefor ;

(*d*) provide for the stoppage, reporting, examination, and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty, or charge due thereon, or to which it is desirable, for the purposes of this Act, to affix a mark ;

(*e*) provide for the establishment and regulation of depots to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it ; and the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depots ;†

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce, and the throwing of grass, brushwood, branches, and leaves into any such river, or any act which may cause such river to be closed or obstructed ;

(*g*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same ;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting,

* The words " or other" have been substituted for the words " and other" by Act V of 1890, sec. 8, sub-sec. 3.

† The word "depots" has been substituted for the word "depot" by Act XII. of 1891.

cutting, burning, concealing, or marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking-hammers or other implements use for marking timber ;

(*i*) regulate the use of property-marks for timber, and the registration of such marks ; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.*

Penalty for breach of rules made under sec. 41.

42. The Local Government may by such rules prescribe as penalties for the infringement thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

Government and forest-officers not liable for damage to forest-produce at depot.

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere for the purposes of this Act ; and no forest-officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously, or fraudulently.

All persons bound to aid in case of accident at depot.

44. In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the Government, or by any private person, shall render assistance to any forest-officer or police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER IX.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

45. All timber found adrift, beached, stranded, or sunk ;

* This para. has been added by Act V. of 1890, sec. 8, sub-sec. 4.

all wood or timber bearing marks which have not been registered under section 41, or on which the marks have been obliterated, altered, or defaced by fire or otherwise, and,

in such areas as the Local Government directs, all unmarked wood and timber,

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this chapter.

Such timber may be collected by any forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to such depots as the forest-officer may, from time to time, notify as depots for the reception of drift-timber.

The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

Notice to claimants of drift-timber.

46. Public notice shall, from time to time, be given by the forest-officer, of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

Procedure on claim preferred to such timber.

47. When any such statement is presented as aforesaid, the forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within three* months from the date of such rejection, institute a suit to recover possession of the timber claimed by him ; but no person shall recover any compensation or costs against the Government, or against any forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

* The word "three" has been substituted for the word "two" by Act V. of 1890, sec. 9.

Disposal of unclaimed timber.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 46, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances "not created by him."*

Government and its officers not liable for damage to such timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously, or fraudulently.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section 51.

Power to make rules and prescribe penalties

51. The Local Government may, from time to time, make rules to regulate the following matters (namely) :—

(*a*) the salving, collection, and disposal of all timber mentioned in section 45 ;

(*b*) the use and registration of boats used in salving and collecting timber ;

(*c*) the amounts to be paid for salving, collecting, moving, storing, and disposing of such timber ;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Local Government may, from time to time, prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER X.

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

52. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats,

* The words quoted have been added by Act V. of 1890, sec. 10.

carts, and cattle used in committing any such offence, may be seized by any forest-officer or police-officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

53. Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Forest produce, tools, &c., when liable to confiscation.

54. All timber or forest-produce which is not the property of Government, and in respect of which a forest-offence has been committed, and all tools, boats, carts, and cattle used in committing any forest-offence, shall be liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken charge of by a forest-officer; and in any other case may be disposed of in such manner as the Court may direct.

Procedure when offender not known, or cannot be found.

56. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the forest-officer; or to be made over to the person "whom the Magistrate deems to be entitled to the same:"*

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

* The words quoted have been substituted by Act V. of 1890, sec. 11.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 52.

58. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 54, 55, or 56, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeals shall be final.

Appeal from orders under sections 54, 55, and 56.

59. When an order for the confiscation of any property has been passed under section 54 or 56, as the case may be, and the period limited by section 58 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Property when to vest in Government.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 52.

Saving of power to release property seized.

61. Any forest-officer or police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful seizure.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,—

Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary-marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or

(*b*) alters, defaces, or obliterates any such mark placed on a tree or on timber by or under the authority of a forest-officer ; or

(*c*) alters, moves, destroys, or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

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

Power to arrest without warrant.

63. Any forest-officer or police-officer may, without orders from a Magistrate, and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case, "or to the officer in charge of the nearest-police-station."*

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under Chapter IV. of this Act, unless such act has been prohibited under section 29, clause (*c*).

Power to prevent commission of offence.

64. Every forest officer and police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily.

65. The District Magistrate† and any Magistrate of the first class specially empowered in this behalf by the Local Government may try summarily, under the Code of Criminal Procedure,† any forest-offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Operation of other laws not barred.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Power to compound offences.

67.‡ (1) The Local Government may, from time to time, by notification in the official Gazette, empower a forest officer by name, or as holding an office,—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other

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* The words quoted have been added by Act V. of 1890, sec. 12.

† See Act X. of 1882, sec. 3.

‡ Sec. 67 has been substituted by Act V. of 1890, sec. 13.

than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A forest-officer shall not be empowered under this section unless he is a forest-officer of a rank not inferior to that of a ranger, and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (*a*), shall in no case exceed the sum of fifty rupees.

Presumption that forest-produce belongs to Government.

68. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER XI.

CATTLE TRESPASS.

Cattle-trespass Act, 1871, to apply.

69. Cattle trespassing in a reserved forest, or in any portion of a protected forest which has been lawfully closed to grazing, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-Trespass Act, 1871, and may be seized and impounded as such by any forest-officer or police-officer.

Power to alter fines fixed by that Act.

70. The Local Government may, from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied, for each head of cattle impounded under section 69 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

	Rs.	As.
For each elephant	10	0
,, each buffalo or camel	2	0
,, each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, or heifer	1	0
,, each calf, ass, pig, ram, ewe, sheep, lamb, goat, or kid	0	8

CHAPTER XII.

OF FOREST-OFFICERS.

Local Government may invest forest-officers with certain powers.

71. The Local Government may invest any forest-officer by name, or as holding an office, with the following powers, that is to say: —

(*a*) power to enter upon any land, and to survey, demarcate, and make a map of the same ;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to issue a search-warrant under the Code of Criminal Procedure ;*

(*d*) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to receive and record evidence.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Forest-officers deemed public servants.

72. All forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

73. No suit shall lie against any public servant for any thing done by him in good faith under this Act.

Forest-officers not to trade.

74. Except with the permission in writing of the Local Government, no forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest, or in any contract for working any forest, whether in British or Foreign territory.

CHAPTER XIII.

SUBSIDIARY RULES.

Additional powers to make rules.

75. The Local Government may, from time to time, make rules—

(*a*) to prescribe and limit the powers and duties of any forest officer under this Act ;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act ;

(*c*) for the preservation, reproduction, and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons ; and

* See Act X. of 1882, sec. 3

(*d*) generally to carry out to the provisions of this Act.

Penalties for breach of rules.

76. Any person breaking any rule under this Act, for the breach of which no special penalty is provided, shall be punished with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Rules when to have force of law.

77. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have the force of law :

Provided that no rule made under section 27, 31, or 41, shall be so published without the previous sanction of the Governor-General in Council.

CHAPTER XIV.

MISCELLANEOUS.

Persons bound to assist forest-officers and police-officers.

78. Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest produce from, or to cut and remove timber or to pasture cattle in, such forest, and

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish, without unnecessary delay, to the nearest forest-officer or police-officer, any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any forest-officer or police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest ;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;

(*c*) in preventing the commission in such forest of any forest-offence ; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Management of forests the joint property of Government and other persons.

79. If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may, from time to time, either—

(*a*) undertake the management of such forest, waste-land, or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land, or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Local Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land, or produce, it may, from time to time, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II. and IV. of this Act shall apply to such forest, waste-land, or produce, and thereupon such provisions shall apply accordingly.

Failure to perform service for which a share in produce of Government forest is enjoyed.

80. If any person be entitled to a share in the produce of any forest which is the property of Government, or over which the Government has proprietary rights, or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government, that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

Recovery of money due to Government.

81. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Lien on forest-produce for such money.

82. When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a forest-officer, until such amount has been paid.

Power to sell such produce.

If such amount is not paid when due, the forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

83. Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section 4.

Recovery of penalties due under bond.

84.* When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.

SCHEDULE.

(*See section 1.*)

ENACTMENTS REPEALED.

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII. of 1865 ...	An Act to give effect to rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII. of 1869 ...	An Act to give validity to certain rules relating to forests in British Burma.	The whole.
Act XIII. of 1873.	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX. of 1874 ...	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII. of 1865 and VII. of 1869.

NOTES UNDER THE INDIAN FOREST ACT.

Possession of wood by a forest-inspector, who is a servant of Government, is possession of the Government itself; and a dishonest removal of it, without payment of the necessary fees, from his possession, albeit with his

* Sec. 84 has been added by Act V of 1890, sec. 14.

actual consent, constitutes theft, within the meaning of sec. 378 of the Penal Code, if that consent was unauthorized or fraudulent.—I. L. R., 1 Bom. 610.

No order confiscating forest-produce which is the property of Government, in respect of which a forest-offence has been committed, is necessary or can be made. All that need be done is to direct a forest-officer to take charge of such forest-produce. An order directing the confiscation of forest-produce not belonging to Government, in respect of which a forest-offence has been committed, can only be made at the time the offender is convicted. The High Court is competent, under sec. 297 of Act X. of 1872, to revise an order made by a District Judge under sec. 58 of the Forest Act, 1878, on appeal from the order of a Magistrate made under sec. 54 of that Act, the jurisdiction of the High Court under sec. 297 of Act X. of 1872 not being expressly taken away by sec. 58 of the Forests Act, 1878.—I. L. R., 4 Al. 417.

The accused was charged, in the alternative, by the trying Magistrate, as follows: "I, W. W. Drew, Magistrate, First Class, hereby charge you, Ramji Sajabarao, as follows: 'That you, on or about the 13th day of October 1882, at Nandarpada, stated that you had seen Vishnu Vaman and Mahadu Lakhsman carrying teakwood from Gohe-Forest to Narayan Ramchandra, range forest-officer, and on 14th February 1885 you stated on oath before the First Class Magistrate at Pen, at the trial of these persons, that you did not see where they had brought the wood from, and thereby committed an offence punishable under sec. 182 or sec. 193 of the Penal Code (Act XLV. of 1860) and within my cognizance; and I hereby direct that you, Ramji Saja barao, be tried by the said Court on the same charge." At the trial the accused asserted the truth of the former of these two statements, and denied having made the other. The Magistrate was unable to find which of them was false, and convicted the accused, in the alternative, either under sec. 182 or sec. 193 of the Penal Code (Act XLV. of 1860), *Held* that the charge was bad in law, being an alternative charge in a form forbidden by sec. 233 of the Criminal Procedure Code (Act X. of 1882), which directs that for every distinct offence of which any person is charged, there shall be a separate charge. Nor could the accused be tried upon a charge framed in the alternative as in the form given in Sch. V-XXVIII. (4) of the Criminal Procedure Code (Act X. of 1882). For, upon the facts alleged, there was no way of charging him with one distinct offence on the ground of self-contradiction. He could not successfully be charged, under sec. 193 of the Penal Code (Act XLV. of 1860), on contradictory statements, because he only made one deposition, in which there were no discrepancies; and, similarly, he could not be charged under sec. 182 of the Penal Code, for he only once gave information to a public servant. *Held* also that, having regard to secs. 225, 232, and 537 of the Criminal Procedure Code (Act X. of 1882), the accused, convicted upon such a charge, must be held to have been misled in his defence, and his conviction and sentence reversed. In charges founded upon supposed contradictory statements, every presumption in favour of the possible reconciliation of the statements must be made. Under sec. 172 of the Forest Act (VII. of 1878), a forest-officer is a public servant within the meaning of the Penal Code (Act XLV. of 1860). Any information given to him with the intent mentioned in sec. 182 of the Penal Code is punishable under that section, whether that information is volunteered by the informant, or is given in answer to questions put to him by that officer.—I. L. R., 10 Bom. 124.

STATE OFFENCES.

ACT NO. XI. OF 1857.

PASSED ON THE 30TH MAY 1857.

An Act for the prevention, trial, and punishment of offences against the State.

WHEREAS it is necessary to make due provision for the prevention, trial, and punishment of offences against the State; It is enacted as follows:—

Preamble.

1, 2. [*Repealed by Act XVII of 1862.*]

3. *Clause* 1.—Whenever the Executive Government of any Presidency or place* shall proclaim that any district subject to its government is or has been in a state of rebellion, it shall be lawful for such Government to issue a commission for the trial of all persons who shall be charged with having committed within such district, after a day to be specified in the commission, any* crime against the State, or murder, arson, roberry, or other heinous crime against person or property.

Executive Government may issue a Commission for the trial of persons charged with certain offences in any district proclaimed to be in a state of rebellion.

Clause 2.—The Commissioner or Commissioners authorized by any such commission may hold a Court in any part of the said district mentioned in the commission, and may there try any person for any of the said crimes committed within any part thereof; it being the intention of this Act, that the district mentioned in the commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

Court may be held in any part of the district.

4. It shall be lawful for the Executive Government, by such commission, to direct that any Court held under the Commissioner shall have power, without* the assistance of assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes, any sentence warranted by law for such crime; and that the judgment of such Court shall be final and conclusive; and that the said Court shall not be subordinate to the Sudder Court.

Government may vest certain powers in the Court.

5. If a commission be issued under the authority of this Act, any Magistrate within the district which is described in the commission may commit persons charged with any of the aforesaid crimes within such district for trial before a Court to be held under this Act.

Magistrate may commit persons for trial before a Court held under this Act.

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* See Act XII of 1876.

Act not to apply to British-born subjects or their children.

6. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural born subjects born in Europe, or of the children of such subjects.

Government may issue proclamation prohibiting the carrying or possession of arms in any district.

7. Whenever the Executive Government shall deem it necessary for the public safety, it shall be lawful for such Government to declare, by proclamation, that from and after a day to be named therein it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes, or any specified description of arms or instruments aforesaid within any district mentioned in the proclamation.

Penalty for unlawful possession of arms, &c.

8. After the day named in the proclamation, whoever shall carry, or have in his possession, any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instruments as aforesaid shall be confiscated.

Magistrate empowered to search houses &c., and to seize arms.

9. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Government may grant exemption to certain persons.

10. Nothing in Sections 7, 8, and 9 of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Interpretation.

11. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate and any Assistant to a Magistrate or Deputy Magistrate specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

STATE PRISONERS.

ACT NO. III. OF 1858.

PASSED ON THE 23RD JANUARY 1858.

An Act to amend the law relating to the arrest and detention of State Prisoners.

Preamble.

WHEREAS doubts have been entertained whether State prisoners confined under Regulation II of 1819 of the Madras Code, or Regulation XXV of 1827 of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III of 1818 of the Bengal Code be extended; It is enacted as follows:—

1. [*Repealed by Act XIV. of* 1870.]

Regulations relating to the arrest and confinement of State Prisoners in the three Presidencies, to be in force within Supreme Court's jurisdiction.

2. The provisions of Regulation III of 1818 of the Bengal Code, Regulation II of 1819 of the Madras Code, and Regulation XXV of 1827 of the Bombay Code, as altered by Section 1 of this Act, relating to the arrest and confinement of persons as State Prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras, and Bombay respectively.

Powers for the better custody of State prisoners, by the Governors in Council of Fort St. George and Bombay.

3. All powers for the better custody of State prisoners which by virtue of Act XXXIV of 1850 are vested in the Governor-General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively for the better custody of State prisoners arrested within their respective Presidencies.

4. [*Repealed by Act XII. of* 1891.]

Removal of State Prisoners from one place of confinement to another.

5. The Governor-General in Council may order the removal of any State Prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said Presidencies, to any other fortress, jail, or place of confinement within the territories in the possession and under the Government of the East India Company.

EXCISE ACT.

ACT NO. XXII. OF 1881.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH OCTOBER 1881.

An Act to amend the law relating to the Excise-revenue in Northern India, Lower Burma, and Coorg.

Preamble.

WHEREAS it is expedient to amend the law in force in Northern India, Burma,* and Coorg relating to the production, sale, possession, and import of spirit, fermented liquors, and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Excise Act, 1881."

Local extent.

It extends to the territories† administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, Lower Burma,† Coorg, and Ajmer and Merwara; and

Commencement.

It shall come into force on the first day of January 1882.

Repeal of Act X. of 1871.

2. On and from that day the Excise Act, 1871, shall be repealed, but all rules made, powers conferred, and licenses and farms granted under that Act and in force on the same day, shall be deemed to have been respectively made, conferred, and granted under this Act.

Interpretation-clause.

3. In this Act—

"Chief Revenue-authority:"

(*a*) "Chief Revenue-authority" means—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces "and the Chief Commissioner of Oudh"‡—

the Board of Revenue;

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* This Act, as amended by Acts VI. of 1885, IX. of 1885, sec. 2, and II. of 1887, secs. 5 and 6, has been extended, under sec. 5 of the Scheduled Districts Act, 1874, to Upper Burma (except the Shan States).

† the power to make rules for the regulation of excise in Upper Burma (except the Shan States).—See *Gazette*, July 21, 1888, Pt. I., p. 292.

‡ These territories are now known as Lower Burma.—See Act XX. of 1886, sec. 2

‡ The Commissioner is styled Chief Commissioner of Burma.—See Proclamation, 1886, *Gazette of India*, 25th *idem*, Pt. I. p. 589.

have been inserted by Act XX. of 1890, sec. 43 (1).

"in the territories respectively administered by the Lieutenant-Governor of the Panjab and the Chief Commissioner of Burma*"—the Financial Commissioner; and

in the territories respectively administered by the Chief Commissioners of† the Central Provinces,‡ Coorg, and Ajmer and Merwara—the Chief Commissioner:

"Collector:" (*b*) "Collector" includes any Revenue-officer in independent charge of a district, and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act:

"Commissioner of Revenue:" "Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act:

"Magistrate:" (*c*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the District:§

"Place:" (*d*) "Place" includes also house, boat, and raft:

"Tari:" (*e*) "Tari" means the sap of any kind of palm-tree:

"Fermented liquor:" (*f*) "Fermented liquor" means malt liquor, wine, pachwai, and fermented tari, and, in any provision of this Act, shall, if the Local Government, subject to the control of the Governor-General in Council, so directs, include any other fermented liquor, and also tari, though it may not have perceptibly begun to ferment:

"Spirit:" (*g*) "Spirit" means any liquor containing alcohol obtained by distillation:

"Intoxicating drugs:" (*h*) The expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same:

"Tola:" (*i*) "Tola" means a weight of one hundred and eighty grains Troy:

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* The words quoted have been substituted by Act XVIII. of 1888, sec. 7.

† The word "Oudh" has been omitted, having been repealed by Act XX. of 1890, sec. 45 (2).

‡ The words "British Burma" in sec. 3 (*a*), repealed by Act XVIII. of 1888, sec. 7, have here been omitted.

§ Now the District Magistrate.—See Act X. of 1882, sec. 3.

"Ser:" (*j*) "Ser" means a weight of eighty tolas:

(*k*) The articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

"Retail:"

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in Burma* one reputed quart bottle;

country fermented liquor, four sers, and in Burma* four reputed quart bottles;

bhang, or any preparation or admixture thereof, one quarter of a ser;

ganja or charas, or any preparation or admixture thereof, five tolas:

"Wholesale." If sold in larger quantities, they shall be deemed to be sold wholesale.

In any case in which doubt arises, the Local Government may decide what, for the purposes of this Act, shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and "foreign fermented liquor;" and such decision shall be binding on the Courts.

"Country spirit:" "Foreign spirit."

4. Nothing herein contained shall affect Act No. XVI. of 1863 (*to make special provision for the levy of the Excise duty payable on Spirits used exclusively in Arts and Manufactures, or in Chemistry*) or the Cantonments Act, 1880.

Saving of Acts XVI. of 1863 and III. of 1880.

CHAPTER II.

PRODUCTION OF SPIRIT, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

5. No person shall construct, work, or possess a distillery, still, or brewery, or manufacture fermented liquor, in any district, except under a license granted by the Collector, or by a person authorized by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Manufacture of spirit and liquor without license prohibited.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time,—

Power to establish distilleries for country spirit.

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established;

* The word "Burma" has here been substituted for "British Burma" by Act XVIII. of 1888, sec. 7.

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

Duty on spirit.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6, until—

(*a*) such duty, as the Local Government may, from time to time, fix in respect of such spirit, has been paid, or*

(*b*) a bond for such duty has been executed, or

(*c*) a duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, direct.

Duty on fermented liquor.

7A † No fermented liquor shall be removed from a brewery licensed under section 5, until—

(*a*) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1882,‡ on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

(*b*) a bound for such duty has been executed.

Power to make rules as to distilleries and breweries licensed under section 5;

8.§ The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the granting of licenses for distilleries, stills, and breweries under section 5;

(*b*) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes;

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* Cl. *a* of sec. 7 has been substituted by Act IX. of 1885, sec. 2.

† Sec. 7A has been inserted by Act XIII. of 1890, sec. 2.

‡ Now Act VIII. of 1894.

§ Sec. 8 has been substituted by Act XIII. of 1890, sec. 3.

(*e*) the inspection and examination of such distillery or brewery and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein ;

(*f*) the furnishing of statements of the spirit and the stills, coppers, casks, and other utensils in such distillery, or of the fermented liquor and the mash-tuns, under-backs, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting, and other vessels in such brewery.

and for distilleries established under section 6.

9. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the management of distilleries established under section 6, and in particular as to the conditions on which any materials to be used in making spirit may be brought into such distillery ;

(*b*) the conditions on which spirit may be made in such distilleries; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under sections 8, and 9.

10. Except in the territories respectively administered by the Chief Commissioners of* the Central Provinces,† Coorg, and Ajmer and Merwara, the sanction of the Local Government is required to validate rules under sections 8 and 9.

Production of intoxicating drugs.

11. In Burma,‡ the cultivation of hemp and the preparation of intoxicating drugs therefrom are prohibited, except under, and in accordance with, a license granted by such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

In the other territories to which this Act extends, the Chief Revenue-authority may from time to time make such rules to restrict and regulate the cultivation of hemp and the preparation of intoxicating drugs therefrom as it may deem necessary to secure the duty leviable in respect of those drugs.

* Here the word "Oudh" has been omitted, having been repealed by Act XX. of 1890, sec. 43 (2).

† Here the words "British Burma" have been omitted, having been repealed by Act XVIII. of 1888, sec. 7.

‡ The word "Burma" in sec. 11 has been substituted for "British Burma" by Act XVIII. of 1888, sec. 7.

CHAPTER III.

SALE OF SPIRIT, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

Spirit, fermented liquor, and drugs not to be sold without license.

12. No spirit, fermented liquor, or intoxicating drug, shall be sold, except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained :

Proviso.

Provided as follows :—

(*a*) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use, and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may, from time to time, prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;

(*c*) any person making or producing country spirit, or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;

(*d*) any cultivator of the hemp-plant may sell any intoxicating drug prepared from his plants to any person licensed under this Act to sell the same, or to any person authorized to purchase the same by the Collector's order in writing.

Licenses how granted

13. Subject to the rules made by the Chief* Revenue-authority under the power hereinafter conferred, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma†) of intoxicating drugs, within his district or any part thereof, or at any place therein.

Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs wholesale, and licenses for the sale, in Burma,† of intoxicating drugs retail, shall be granted only by such

* Here the word "Controlling" has been omitted, having been repealed by Act XII. of 1891.

† The word "Burma" in sec. 13 has been substituted for "British Burma" by Act XVIII. of 1888, sec. 7

officer as the Local Government from time to time appoints in this behalf.

Power to cancel license for cause specified therein.

Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Power to cancel license for other causes.

14. Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor, or intoxicating drugs, should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or Chief Revenue-authority directs.

On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license.

15. Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same, and on payment of such sum, not exceeding the amount of the license-fee for six months as the Collector may fix in this behalf.

If the Collector is satisfied that there is a sufficient reason for surrendering a license, he may remit the sum so fixed.

Power to farm fees.

16. The Collector may, with the sanction of the Chief Revenue-authority, let in farm—

(*a*) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma*) of intoxicating drugs :

(*b*) the right to manufacture, in any district or part of a district, in which no distillery is established under section 6, country spirit or country fermented liquor.

Farmer to grant licenses.

When the fees so leviable, or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the Sanction of the Chief Revenue-authority, may, from time to time, make or impose, grant licenses for

* The word "Burma" in sec. 16 (*a*) has been substituted for "British Burma" by Act XVIII. of 1888, sec. 7.

the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

List of licenses granted by farmer to be filed.

17. The Collector may, with the sanction of the Chief Revenue-authority, cancel any farm granted under this Act.

Farm may be cancelled.

18. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Compensation to farmers in certain cases.

19. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Recovery of arrears by farmers.

20. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tari shall be supplied to licensed vendors of the same, and the grant of licenses or passes to persons possessing or transporting intoxicating drugs for the supply of the licensed vendors of such drugs.

Power to regulate supply of tari and intoxicating drugs to licensed vendors.

CHAPTER IV.

POSSESSION OF SPIRIT, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

21. No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, clause (*k*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

Possession of spirit, &c.

Proviso. Nothing in this section extends to—

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use, and not for sale, or

(*b*) tari intended to be used for the manufacture of gúr or molasses.

Possession of intoxicating drugs.

22. In Burma* no person shall have in his possession any intoxicating drugs, except under, and in accordance with the terms of, a general exemption granted by the Chief Commissioner, or a license granted by such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

In the other territories to which this Act extends, no person shall have in his possession any larger quantity of such drugs than that specified in section 3, clause (*k*), in respect of such drugs, unless he is permitted to manufacture or sell the same.

CHAPTER V.

IMPORT OF SPIRIT "AND FERMENTED LIQUOR.†"

Spirit and fermented liquor from foreign territory subject to duty.

23.‡ (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882, "or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (*a*) of section 7A, may from time to time prescribe."§

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

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* The word "Burma" in sec. 22 has been substituted for "British Burma" by Act XVIII. of 1888, sec. 7.

† The words quoted have been added by Act XII. of 1891.

‡ Sec. 23 is a new section, substituted by Act II. of 1887, sec. 5, for the one originally enacted.

§ In sub-sec. (2) of sec. 23, the words quoted have been added by Act XIII of 1890, sec. 4.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

Collectors may appoint Excise-officers.

24. The Collector may appoint persons by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act; and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Recovery of arrears of fees.

25. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders, or from farmers of land, or their sureties.

Power of Excise-officers to inspect shops;

26. Any Excise-officer may enter and inspect at any time, by day or by night, the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor, or intoxicating drugs.

to arrest persons carrying spirit, &c., liable to confiscation;

27. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor, or intoxicating drug liable to confiscation under this Act;

and may seize such spirit, liquor, or drug, together with any vessels, packages, or coverings in which it is contained, and any animals and conveyances used in carrying it;

and may also arrest the person in whose possession such spirit, liquor, or drug is found.

to arrest persons in possession of article liable to confiscation, and to seize article.

28. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, "or who receives an annual remuneration equivalent to such salary,"* may arrest any person having in his possession any article liable to confiscation under this Act, or engaged in the unlawful sale of any spirit, fermented liquor, or intoxicating drug, and may seize such article, spirit, liquor, or drug.

to search on information of illicit manufacture or possession.

29. Whenever any Excise-officer in receipt of such monthly salary "or annual remuneration"† as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured,

* The words quoted have been inserted by Act VI of 1885, sec. 1.

† The words quoted have been inserted by Act VI. of 1885, sec. 2.

or any article liable to confiscation under this Act is kept or concealed,

such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, "unless the Excise-officer is himself such an officer of police"* enter into such place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article,

and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

30. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor, or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search warrant.

31. The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act, or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor, or intoxicating drug, liable to confiscation under this Act, is kept or concealed.

Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees, at the time and in the manner prescribed in section 29.

Special warrant authorizing search at night.

Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 29, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report arrest, &c.;

32. Whenever an Excise-officer arrests any person,

or seizes any article liable to confiscation under this Act,

or enters any place for the purpose of searching for any such article,

* The words quoted have been inserted by Act VI. of 1885, sec. 2.

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested, or the article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

and to take person arrested to Magistrate.

33. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested, or the article seized, to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Procedure after arrest or seizure.

34. All police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such officers.

Police to aid Excise-officers.

.34A. * The Local Government may, from time to time, invest, either by name or in virtue of his office—

Power to invest police-officers with powers of Excise officers.

(*a*) any police-officer with the powers conferred on Excise-officers by section 27 of this Act ;

(*b*) any police-officers in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

35. Whoever, in constravention of section 5, contructs, works, or possesses a distillery, s till, or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both ;

Penalty for illegally manufacturing spirit or liquor;

and all spirit and liquor made in contravention of section 5, and

* Sec. 34A has been inserted by Act V. of 1885, sec. 3. For Notification under this section concerning Upper Burma, see *Burma Gazette*, Oct. 20, 1888, Pt. I., p. 476.

all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

36. Any person who—

for illegally introducing country spirit;

(*a*) without a special pass from the Collector, introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

for illegally removing spirit;

(*b*) in contravention of section 7 "or section 7A,"* or of any rule made under section 8 or section 9, removes any spirit from a distillery "or any fermented liquor from a brewery,"* or

for illegally importing spirit;

(*c*) in contravention of section 23, brings any spirit "or fermented liquor"† into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and the spirit "or fermented liquor,"† together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

37. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 8 or section 9, shall be punished with fine not exceeding one hundred rupees.

for contravening rules prescribed by Chief Revenue-authority;

38. Any person who, in contravention of section 11 or of any rule made thereunder, cultivates hemp or prepares any intoxicating drug, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

for illegally cultivating hemp and preparing drugs;

39. Any person who, in contravention of section 12, sells any spirit, fermented liquor, or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

for illicit sale of spirit, &c.;

40. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meat or remain therein, or receives any wearing apparel or other effects in barter for spirit, ferment-

for permitting drunkenness, &c., in shop;

* In Cl. *b* of sec. 36, the words quoted have been inserted by Act XIII of 1890, sec. 5.

† In cl. *c* of sec. 36, the words quoted have been inserted by Act II. of 1887, sec. 6.

ed liquor, or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

for illegal possession of spirit, liquor, or drug;

41. Any person who possesses any spirit, liquor, or drug, in contravention of section 21 or section 22, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both;

and the spirit, liquor, or drug, together with any vessels, packages, and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

for refusal to produce license and for breach of rules and conditions;

42. Any person holding a license under this Act, and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule made under this Act, or any condition of a license granted under this Act, for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

for conniving at illicit manufacture or sale of spirit, &c.;

43. Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs, shall, for every such offence, be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

And any person invested with local jurisdiction, who authorizes or connives at the illegal sale of any spirit, fermented liquor, or intoxicating drug, within the local limits of such jurisdiction, shall be punished with fine which may extend to five hundred rupees.

for police neglecting to aid Excise-officer;

44. Any police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 34, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 29, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

for vexatious search or seizure;

45. Any Excise-officer who—

(*a*) without reasonable grounds of suspicion searches or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

for delay in reporting arrest, &c., or in taking person arrested to Magistrate

46. Any Excise-officer who, in contravention of section 32 or section 33, neglects to report the particulars of an arrest, seizure, or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 35, 36, 37, 38, 39, 41, 42, and 43, except on the complaint or report of the Collector or an Excise officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.*

Confinement in what jail.

48. Every person imprisoned for an offence under section 37 or section 42 shall be confined in the civil jail and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

49. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the Indian Penal Code, the commission of any such offence, shall be punished with the punishment provided for such offence.

Disposal of fines, &c., as rewards.

50. Any Magistrate before whom any person is convicted of any offence under section 35, 36, 37, 38, 39, 41 or 43, may award to any person who has contributed in any way to such conviction the whole or any portion of any fine imposed upon the offender, and paid by him or realized from his property.

Magistrate to pass order of confiscation.

51. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

* This section has been substituted by Act VI of 1885, sec. 4, for the one originally enacted

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture and sale of spirits, &c., in military cantonments.

52. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding officer;

and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits, shall be immediately cancelled.

Mode of making arrest or search in military cantonments.

53. In all other respects the provisions of this Act shall have effect within such limits or distance.*

CHAPTER IX.

MISCELLANEOUS.

Collector subject to control of Commissioner.

54. The Collector shall, in all proceedings under this Act, be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional power to make rules.

55. The Chief† Revenue-authority may, from time to time, make rules consistent with this Act—

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

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* The proviso to sec. 53 has been omitted, having been repealed by Act XIII. of 1889, sec. 2 and schedule.

† Here the word "Controlling" has been omitted, having been repealed by Act XII. of 1891.

(*e*) as to the disposal of things confiscated under this Act ;

(*f*) as to the duties of Excise-officers ; and

(*g*) to provide generally for carrying out the provisions of this Act.

Power to exempt articles and persons.

56. The Local Government may, from time to time, by notification in the official Gazette, exempt, within any specified local area, any specified articles or any specified class of persons from all or any of the foregoing provisions of this Act, and may, by like notification, cancel any such exemption.

NOTES UNDER THE EXCISE ACT.

On the 30th October 1877, N was granted a license for the sale of spirituous and fermented liquors by retail, terminating on the 31st December 1877. On the 11th January 1878, such license was renewed by the Collector for a period terminating on the 31st March 1878. On the 14th January 1878, N's servant was convicted, under sec. 62 of Act X. of 1871, of the illicit sale of liquors between the 1st January 1878 and 10th January 1878, both days inclusive. *Held* that the renewal of N's license was a condonation of the offence, and the conviction was bad. *Semble.*—That, inasmuch as N had given no notice of his intention not to renew the license, nor had the Collector recalled it, the license remained in force, and the conviction was consequently bad under sec. 32 of Act X. of 1871.—I. L. R., 1 Al. 630.

D was the holder of a license for the sale of spirituous and fermented liquors by retail for a period terminating on the 31st December 1877. On the 10th January 1878, his license not having been renewed by the Collector, D sold certain spirits by retail. On these facts he was convicted of the illicit sale of liquor. Subsequently to his conviction, his license was renewed. *Held* that, under such circumstances, his conviction was good. Empress *v.* Seymour (I. L. R., 1 Al. 630) distinguished.—I. L. R., 1 Al. 635.

A held a license for the sale of spirituous and fermented liquors by retail for a period of three months terminating on the 31st December 1877. Prior to the 8th January 1878, no notice was given by A of her intention not to renew the license, nor had the license been recalled by the Collector. Between the first January 1878 and the 8th January 1878, both days inclusive, A's servants sold spirituous and fermented liquors by retail. On these facts A's servants were convicted under sec. 62 of Act X. of 1871, of the illicit sale of liquor. *Held*, following the opinion expressed in Empress *v.* Seymour (I. L. R., 1 Al. 630), that the convictions were bad, as A's license, under the provisions of sec. 32 of that Act, remained in force until she gave notice of her intention not to renew it, or it was recalled by the Collector. The principle of the decision in Empress *v.* Seymour (I. L. R., 1 Al. 630) dissented from. A should have been prosecuted under sec. 57 of the Excise Act for not paying her monthly fee in advance.—I. L. R., 1 Al. 638.

Held, in a prosecution under secs. 19 and 63 of Act X. of 1871, that the definition of "ser" given in sec. 2 of Act XI. of 1870 was not so intelligible and clear as to be capable of general application, and that it did not supersede the local customary weight of ser. *Held*, therefore, the local customary weight of a ser being ninety-five tolas (the Government ser weighing eighty tolas), and the accused having been found in possession of ninety-six tolas only, that excess of one tola over the local weight was not such as to warrant the presumption of the guilt of the accused.—I. L. R., 3 Al. 404.

NORTHERN INDIA FERRIES ACT.

ACT. NO. XVII. OF 1878.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH NOVEMBER 1878.

An Act to Regulate Ferries in Northern India.

Preamble.

WHEREAS it is expedient to regulate ferries in the Punjab the North-Western Provinces, Oudh, the Central Provinces, Assam, and Ajmere and Merwara; It is hereby enacted as follows :—

PRELIMINARY.

Short title.

1. This Act may be called the Northern India Ferries Act, 1878 :*

Local extent.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmere and Merwara :

Commencement.

It shall come into force in each of the said territories on such date* as the Local Government may, by notification in the official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI. of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken under that Regulation, and then in force, shall be deemed to be respectively made, entered into, and taken under this Act.

Interpretation-clause.

3. In this Act the word "ferry" includes also a bridge-of-boats, pontoons or rafts, a swing-bridge, a flying-bridge, and a temporary bridge, and the approaches to, and landing-places of, a ferry.

II.—PUBLIC FERRIES.

Power to declare, establish, define, and discontinue public ferries.

4. The Local Government may from time to time—

* Act XVII. of 1878 came into force in the North-Western Provinces and Oudh on the 1st January 1879. See North-Western Provinces and Oudh Gazette, 1878, p. 2035.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(*b*) take possession of a private ferry, and declare it to be a public ferry;

(*c*) establish new public ferries where, in its opinion, they are needed;

(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change, or discontinuance, shall be made by notification in the official Gazette:

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor-General in Council, by notification in the Gazette of India, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4 shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7 "and section $7A$,"* be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality;

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

* The words quoted have been inserted by Act XIV. of 1883 sec. 65.

and proceeds paid into municipal fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town ;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

7A*. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh may direct that any public ferry wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

In North-Western Provinces and Oudh management may be vested in district Board.

and proceeds paid into district fund

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

8†. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

Letting ferry-tolls.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate, as if they were arrears of land-revenue.

Recovery of arrears from lessee.

* Sec 7A has been inserted by Act XIV. of 1883, sec. 64A similar section has been enacted for the Central Provinces and the Punjab.—See Act I. of 1883, sec. 43, and Act XX. of 1883, sec. 78.

† Sec. 8 has been substituted for the original sec. 8 by act III. of 1886, sec. 1 (1).

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division, and for regulating the traffic at such ferries ;

(*b*)* for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions, may be conducted ;

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry, when such ferry has been discontinued before the expiration of the period compounded for ; and

(*d*) generally to carry out the purposes of this Act.

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries ;

(*f*) in cases in which the communication is to be established by means of a bridge-of-boats, pontoons or rafts, or a swing-bridge, flying-bridge, or temporary bridge, for regulating the time and manner at and in which such bridge shall be

* This clause has been substituted for the original cl. *b* by Act III. of 1886, sec. 1 (2).

constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(1) the number and kinds of such boats, and their dimensions and equipment;

(2) the number of the crew to be kept by the lessee for each boat;

(3) the maintenance of such boats continually in good condition;

(4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and

(5) the number of passengers, animals, and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry :*

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit :

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats "which do not ply for hire, or"† which the Local Government expressly exempts from the operation of this section.

Person using approaches, &c., liable to pay.

14. Whoever uses the approach to, or landing place of, a public ferry, is liable to pay the toll payable for crossing such ferry.

Tolls.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles, and other things crossing any river by a public ferry, and not employed or transmitted on the public service :

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* This paragraph has been substituted for the original paragraph by Act III. of 1886 sec. 2 (1).

† The words quoted have been inserted by Act III. of 1886, sec. 2 (1).

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles, or other things, shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the lease,* shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

List of tolls.

Tolls, rents, compensation, and fines how disposed of.

17. Except as provided by section 7 "and section 7A,"† all tolls, rents, and compensation received by or on behalf of Government, and all fines levied under this Act, shall be disposed of as follows, that is to say :—

(*a*) in the territories administered by the Lieutenant-Governor of the North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878 ;

(*b*) in the territories administered by the Chief Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878 ;

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation, and fines, shall be credited to the Local Government, and applied, "in the first instance,‡" to defraying all charges incurred in carrying out this Act in those territories respectively "and shall then, at the discretion of the Local Government—

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* The word "lease" has been substituted for the original word by Act III. of 1886, sec. 1 (3).

†This reference has been inserted by Act XIV. of 1883, sec. 65.

‡The words and figures quoted have been substituted for the original words and figures respectively by Act XII. of 1891.

(*i*) be placed at the disposal of any district board or district boards established under the Punjab District Boards Act, 1883, or,

(*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878

as the case may be; and*"

(*d*) in the territories respectivety administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere and Merwara, such tolls, rents, compensation, and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort, or convenience as the Local Government, subject to the control of the Governor-General in Council, may from time to time direct.

Compounding for tolls.

18. The Local Government may, if it thinks fit, from time to time, fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—Private Ferries.

Power to make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of tolls, list of tolls, and return of traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters, or defaces such table, or allows it to become illegible.

or who fails to produce on demand the list of the tolls mentioned in section 16,

* The words and figures quoted have been substituted for the original words and figures respectively by Act XII. of 1891.

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized tolls, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle, or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 13 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections,

the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to or landing-place thereof, who refuses to pay the proper tolls ; and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee, or assistant not to do so, goes or takes any animals, vehicles, or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles, or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee, or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

26.* Whoever establishes, maintains, or works a ferry in contravention of the provisions of section 13, shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

Fines payable to lessee.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

28. Whoever navigates, anchors, moors, or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft, or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to try summarily.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XXII. of the Code of Criminal Procedure, 1882,† may try any offence against this Act in manner provided by that chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amounts so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28 by the sale of the vessel, raft, or timber causing the damage, and of anything found in or upon such vessel or raft.

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* This section has been substituted for the original sec. 26 by Act III. of 1886, sec. 2 (3).

† The reference to Chapter XXVIII. of Act X. of 1872 has been altered in accordance with Act X. of 1882, sec. 2.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS.

Power to take possession of boats, &c., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other materials and appliances used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles, or baggage belonging to such officers, troops, or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Deligation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

36. [*Validation of proceedings since repeal of Regulation VI. of 1819 in Punjab.*] *Repealed by Act XII. of* 1891.

INDIAN COMPANIES ACT.

EXTRACTS.

ACT NO. VI. OF 1882.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH FEBRUARY 1882.

An Act for the incorporation, regulation, and winding-up of Trading Companies and other Associations.

Preamble.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation, and winding-up of Trading Companies and other Associations; It is hereby enacted as follows :—

Penalty on falsification of books.

215. If any director, officer, or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies, or fraudulently secretes any books, papers, writings, or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account, or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Prosecution of delinquent directors in case of winding-up by Court.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer, or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

Penalty for false evidence.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition, or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall

be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

Cognizance of offences.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences committed within Presidency-towns.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

CIVIL PROCEDURE CODE.

EXTRACTS.

ACT NO. XIV. OF 1882.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows :—

* * * * *

Of Resistance to Execution.

Procedure in case of obstruction to execution of decree.

328. If, in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the Judgment-debtor or by some person at his instigation, the Court shall enquire into the matter of the complaint, and pass such order* as it thinks fit.

Procedure when obstruction continues.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance of obstruction, commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into the possession of the property.

* For form of order for committal, see Schedule IV. No. 153, in the Code of Civil Procedure.

Resisting or obstructing purchaser in obtaining possession of immoveable property.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this Chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him shall be applicable.

Suits by paupers.

Procedure when pauper fails.

412. If the plaintiff fails in the suit, or if he is dispaupered, or if the suit is dismissed under section 97 or 98, the Court shall order the plaintiff, or any person made, under section 32, co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper ;

and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees or with imprisonment for a term which may extend to a month, or with both.

SUPREME COURTS.

ACT NO. XV. OF 1848.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH JUNE 1848.

An Act to forbid trading by the officers of the Supreme Courts.

Preamble.

For the better discharge of their duties by the officers of the under mentioned Courts of Justice ;* It is enacted as follows :—

Prohibition, in case of officers of Supreme Courts, against accepting gifts ; holding certain offices ; carrying on dealings.

1. No officer of any of the Courts of Judicature established by Royal Charter within the territories subject to the government of the East India Company, or of any Court established for the relief of insolvent debtors within the said territories, shall, directly or indirectly, by himself, or by any other person or persons on his behalf, accept from any person or persons any gift or reward for any act or behaviour in his office other than his legal salary and fees and profits of office, or hold any office in any bank or public company, except as hereinafter excepted, or carry on or be concerned in any dealings as a banker or trader, or as agent, factor, or broker, either for his own advantage, or for the advantage of any other person or persons, except such dealings as it may be part of the duty of any such officer by virtue of his office to carry on.

Exemption of officers who are also advocates, &c.

2. This Act shall not be construed to forbid any officer of any of the said Courts, who is also a practising advocate, attorney, solicitor, or proctor in any of the said Courts, from taking the usual fees and emoluments of advocates, attorneys, solicitors, or proctors, nor to apply to any advocate, attorney, solicitor, proctor, sheriff, assignee, receiver, or committee, so far as he is held to be in that capacity merely for some purposes an officer of any of the said Courts.

Holding unpaid office in society.

3. This Act shall not be construed to forbid any officer of any of the said Courts from holding any unpaid office in any society for charitable purposes, or for the advancement of knowledge, or for the encouragement of science, art, or Manufactures.

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* See 24 & 25 Vic., c. 104, sec. 11.

Punishment for contravention of Act.

4. Every officer of any of the said Courts who shall knowingly offend against this Act shall, on conviction thereof, be liable to be punished by deprivation of his office, and also, by the sentence of the Court before which he shall be convicted, may be declared incapable, and in that case shall become incapable, of being appointed to the same or any other office of the same Court, or to serve Her Majesty* in the territories under the Government,* or in such part of the said territories as shall be specified in the sentence, or in the discretion of the Court may be otherwise punished by fine or fine and imprisonment for his misdemeanour as to the Court shall seem fit, regard being had to the nature of his offence.

* See Act XII. of 1876.

BINDING APPRENTICES.

ACT NO. XIX. OF 1850.

(*As amended by Act XII of* 1891.)

RECEIVED THE G.-G.'S ASSENT ON THE 11TH APRIL 1850.

Concerning the binding of Apprentices.

Preamble.

For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts, and employments, by which, when they come to full age, they may gain a livelihood, It is enacted as follows :—

Apprenticing of child between 10 and 18 years old.

1. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft, or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or in the case of a female, beyond the time of her marriage.

Evidence of age in questions as to right to service.

2. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

Powers of Magistrate or Justice acting for orphans, &c.

3. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

Apprenticing of child brought up by public charity.

4. Any orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors, or managers thereof, as his or her guardians for this purpose.

Apprenticing of such boy in sea-service.

5. Any such boy may be bound as an apprentice in the sea-service to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of India, which has been declared to be a registering port under Act X. 1841, to be employed in any such ship, the property of such person, com-

manded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.*

6. [*Repealed by Act XV. of* 1870.]

Who to be agent of master of apprentice serving in ship.

7. The master or commander of any ship in which an apprentice bound to the sea-service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

Form and contents of contract of apprenticeship.

8. Every contract of apprenticeship shall be in writing according to the form given in the Schedule A annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

Signatures to contract.

9. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the governors, directors, or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.

Contract not valid unless executed as prescribed and deposited.

Copies to be given to parties.

10. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea-service in the office of the person appointed, under Act X., 1841, to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the hand-writing of the Magistrate or registering officer.

Alteration of terms of service and termination of contract.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with

* See Act I of 1859, sec. 4.

the signature of the proper parties according to section 9* of this Act; and the Magistrate or registering officer shall thereupon make under his hand corresponding endorsements on the office-copies, which shall be brought to him at the same time for that purpose.

Assignment of apprentice to new master.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he his above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respecs tively: and every such assignment shall be certified on the office copie- of the contract under the hand of the Magistrate or registering officer according to the form given in Schedule B annexed to this Act.

Powers of Magistrate in case of complaint by apprentice against master.

13. Upon complaint made to any Magistrate in the said territories,† by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees; and if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master, but his agent, by distress and sale of the goods and chattels of the master also.

Power of master or his agent to chastise apprentice.

14. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any

* See Act XII of 1891. † See section 5.

Liability of master or agent for assault, &c.

apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

Power of Magistrate in case of complaint by master against apprentice.

15. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

Cancelment of contract for misconduct of apprentice.

16. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

Appropriation of sum recovered for apprentice on cancelment of contract.

17. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be

paid to the person by whom any premium was paid when he was bound apprentice.

Limitation of complaint of master against apprentice;

18. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on board-ship during a voyage, within one month after the arrival thereof at a port or place in the said territories; and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or, if the cause of complaint arose on board-ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

of apprentice against master.

Effect of death of master during apprenticeship.

19. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

Offer by representative of master to continue apprenticeship.

Offer to be certified on original contract and copies.

20. If such offer to keep the apprentice shall be made as aforesaid, same shall be fully expressed and certified by the executors or* administrators on the original contract of apprenticeship; and also on the office-copies thereof, by the Magistrate or registering officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

Maintenance of apprentice whose master dies.

Apprentice to continue to serve.

21. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three

* See Act XII. of 1891.

months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

Effect of insolvency of master during apprenticeship.

22. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof as a debt against the estate of the bankrupt or insolvent*.

Persons amenable to jurisdiction of Magistrates' Courts.

23. For the purposes of this Act, all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of India, without the towns of Calcutta and Madras and the town and Island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of India.

Appeal from orders of Mofussil Magistrates.

24. An appeal shall lie from any order passed by any Magistrate without the said towns and Island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

Interpretation of terms.

25. In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

SCHEDULE A.

FORM OF AGREEMENT.

This Agreement made the day of in the year between *A. B.*, of , and *C. D.*, of , witnesseth that the said *A. B.* doth this day bind *E. F.*, a boy (or girl) of the age of years completed, son (or daughter) of the said *A. B.* (or otherwise describing the relation in which *A. B.* and *E. F.* stand) to dwell with and serve the said *C. D.*, as an apprentice, from this day forth for years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said *C. D.* according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things toward the said *C. D.* and his (or her) family. And the said *C. D.* or himself (or herself) and his (or her) executors and administrators,

* Compare 12 & 13 Vic., cl. 106, sec. 170.

in consideration (of the premium or sum of paid by the said *A. B.* to the said *C. D.*, the receipt whereof the said *C. D.* hereby acknowledges,) and of the faithful service of the said *E. F.*, doth convenant and agree with the said *A. B.*, his (or her) executors and administrators that he (or she) will teach or cause to be taught to the said *E. F.*, in the best way and manner that he (or she) can, the trade (craft or employment) of a during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome, and sufficient food, clothes, lodging, washing, and all other things necessary, fit, and reasonable for an apprentice: (and further, *here insert any special covenants*).

If their is no premium, the word between brackets may be omitted.

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

A. B. L S.

C. D. L. S.

BRAHMO MARRIAGE.

EXTRACTS.

ACT NO. III. OF 1872.

RECEIVED THE G.-G'S ASSENT ON THE 22ND MARCH 1872.

An Act to provide a form of Marriage in certain cases.

WHEREAS it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh, or Jain religion, and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows:—

Preamble.

Local extent.

1. This Act extends to the whole of British India.

* * * * *

Declaration by parties and witnesses.

10. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form contained in the second schedule to this Act. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her father or guardian, except in the case of a widow, and, in every case, it shall be countersigned by the Registrar.

* * * * *

Penalty on married person marrying again under Act.

15. Every person who, being at the time married, procures a marriage of himself to be solemnized under this Act, shall be deemed to have committed an offence under section four hundred and ninety-four or section four hundred and ninety-five of the Indian Penal Code, as the case may be; and the marriage so solemnized is void.

Punishment of bigamy.

16. Every person married under this Act who, during the lifetime of his or her wife or husband, contracts any other marriage, shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife, whatever may be the religion which he or she professed at the time of such second marriage.

* * * * *

Penalty for signing declarations or certificates containing false statements.

21. Every person making, signing, or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed guilty of the offence described in section one hundred and ninety-nine of the Indian Penal Code.

Note.—The Schedule is omitted.

CHRISTIAN MARRIAGE.

EXTRACTS.

ACT NO. XV. OF 1872.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH JULY 1872.

An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Indian Christian Marriage Act, 1872;"

Extent.

It extends to the whole of British India, and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty.

PART VII.

PENALTIES.

False oath, notice, or certificate for procuring marriage.

66. Whoever, for the purpose of procuring any marriage, intentionally makes any false oath, or signs any false notice or certificate required by this Act, shall be deemed guilty of the offence described in section one hundred and ninety-three of the Indian Penal Code.

Forbidding, by false personation, issue of certificate by Marriage Registrar ;

67. Whoever forbids the issue, by a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section two hundred and five of the Indian Penal Code.

Solemnizing marriage without due authority.

68. Whoever, not being authorized under this Act to solemnize a marriage in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with

imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years,

or, if the offender be an European or American, with penal servitude according to the provisions of Act No. XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine.

Solemnizing marriage out of proper time, or without witnesses;

69. Whoever knowingly and wilfully solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Saving of marriages solemnized under special license;

This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section ten.

Solemnizing, without notice or within fourteen days after notice, marriage with minor;

70. Any Minister of Religion licensed to solemnize marriages under this Act, who without a notice in writing, or, when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III., shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Issuing certificate, or marrying, without publication of notice;

71. A Marriage Registrar under this Act, who commits any of the following offences :—

(1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act ;

(2) after the expiration of two months from the issue by him of a certificate in respect of any marriage, solemnizes such marriage ;

marrying after expiry of certificate;

(3) solemnizes, without an order of a competent Court authorizing him to do so, any marriage, when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the District if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar ;

solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice ;

(4) issues any certificate the issue of which has been prohibited as in this Act provided, by any person authorized to prohibit the issue thereof,

issuing certificate against authorized prohibition;

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

72. Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of three months after the notice has been entered by him as aforesaid,

Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition.

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

73. Whoever, being authorized under this Act to solemnize a marriage,

Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland, or Rome) ;

and not being a Clergyman of the Church of England, solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies, and customs of that church,

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III of this Act, or after the expiration of two months after the certificate has been issued by him ;

issuing certificate, or marrying, without publishing notice, or after expiry of certificate ;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District ;

issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice ;

or knowingly and wilfully issues any certificate the issue of which has been forbidden, under this Act, by any person authorized to forbid the issue ;

issuing certificate authorizedly forbidden ;

or knowingly and wilfully solemnizes any marriage forbidden, by any person authorized to forbid the same,

solemnizing marriage authorizedly forbidden.

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

74. Whoever, not being licensed to grant a certificate of marriage under Part VI. of this Act, grants such certificate, intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Unlicensed person granting certificate pretending to be licensed.

75. Whoever, by himself or another, wilfully destroys or injures any register-book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

Destroying or falsifying register-books.

or falsely makes or counterfeits any part of such register-book or counter foil certificates,

or wilfully inserts any false entry in any such register-book or counter-foil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

76. The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

Limitation of prosecutions under Act.

PARSI MARRIAGE.

EXTRACTS.

ACT NO. XV. OF 1865.

RECEIVED THE G.-G.'S ASSENT ON THE 7TH APRIL 1865.

*An Act to define and amend the law relating to Marriage and Divorce among the Parsis.**

WHEREAS the Parsi community has represented the necessity of defining and amending the law relating to marriage and divorce among Parsis ; And whereas it is expedient that such law should be made conformable to the customs of the said community ; It is enacted as follows :—

Preamble.

Short title.

1. This Act may be cited as "The Parsi Marriage and Divorce Act, 1865."

Interpretation-clause.

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

Words in the singular number include the plural, and words in the plural number include singular :

"Priest" means a Parsi priest and includes Dastur and Mobed :

"Marriage" means a marriage between Parsi whether contracted before or after the commencement of this Act ; and "Husband" and "Wife" respectively mean a Parsi husband and a Parsi wife :

"Section" means a section of this Act :

"Chief Justice" includes Senior Judge :

"Court" means a Court constituted under this Act :

* * * * *

Remarriage save after divorce unlawful during lifetime of first wife or husband.

4. No Parsi shall, after the commencement of this Act, contract any marriage in the lifetime of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided :

Punishment of bigamy.

5. Every Parsi who shall, after the commencement of this Act and during the lifetime of his or her wife or husband, contract any marriage without having

* Declared to apply to the whole of British India, except the Scheduled Districts, by Act XV. of 1874—a needless declaration, see sec. 53.

been lawfully divorced from such wife or husband, shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

Certificate and registry of marriages.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in the schedule to this Act.

The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall thereupon send such certificate, together with a fee of two rupees to be paid by the husband, to the registrar of the place at which such marriage is solemnized.

The registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Penalty for solemnizing marriage contrary to section 4.

9. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for priest's neglect of requirements of section 6.

10. Any priest neglecting to comply with any of the requisitions affecting him contained in the sixth section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to subscribe and attest certificate.

11. Every other person required by the sixth section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for making, &c., false certificate.

12. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence

of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in section four hundred and sixty-six of the said Code.

Penalty for not registering certificate.

13. Any registrar failing to enter the said certificate pursuant to the sixth section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for secreting, destroying, or altering register.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a registrar, for a term which may extend to five years and shall also be liable to fine which may extend to five hundred rupees.

INDIAN VOLUNTEERS' ACT.

ACT NO. XX. OF 1869.

RECEIVED THE G.-G.'s ASSENT ON THE 10TH SEPTEMBER 1869.

An Act to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.

Preamble.

WHEREAS many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as military corps under the command of officers appointed for that purpose ; and it is expedient to provide for the good order and discipline of such corps, and to invest their members with certain powers ; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Volunteers' Act, 1869."

Extent of Act.

2. This Act shall extend to the whole of British India and (so far as regards British subjects) to the dominions of Native Princes and States in alliance with Her Majesty.

3. [*Repealed by Act XIV. of* 1870.]

"Magistrate."

4. In this Act "Magistrate" means, within the limits of the Presidency Towns, a Magistrate of Police and, without those limits, a person exercising the full powers of Magistrate.

Formation and Dissolution of Volunteer Corps.

Formation of corps.

5. Corps of volunteers may, with the sanction of the Governor-General of India in Council, or of the Local Government,* be formed in any part of British India of the said dominions.

Certificate of commanding officer to be evidence of enrolment.

6. A certificate of enrolment in such corps, signed by the commanding officer thereof, shall be *prima-facie* evidence of such enrolment.

* The Chief Commissioner of Mysore and Coorg has been invested with the powers of a local Government under this Act, in respect to all matters connected with Bangalore Rifle Volunteers.

7. The Governor-General of India in Council or the Local Government may disband any corps formed or enrolled under the provisions of this Act, or of Act No. XXIII. of 1857, or remove from such corps any member thereof.

Power to disband corps or remove members.

Application of Articles of War.

8. Every member of a corps of Volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or an parade, be subject to the Articles of War for the time being in force for the better government of Her Majesty's Army, so far as the same are applicable to officers and consistent with the provisions of this Act.

Volunteers subjected to Articles of war so far as they apply to officers

Provided that no such member shall, for any offence against the said Articles, be subject to the punishment of death.

Proviso.

Courts-martial.

9. General Courts-martial shall be convened and appointed by the commanding officer of the corps, with the sanction of the Local Government, for the trial of military offences of which any member of such corps shall be guilty whilst on actual duty.

Appointment of and sentences by General Courts-martial.

No sentence of such Courts-martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the Local Government.

The Local Government may commute any such sentence for a less punishment, or pardon the offender.

10. General Courts-martial shall consist of not less than nine members of the corps, and every member of the corps, whether an officer or not shall be competent to sit and act as a member of such Court-martial.

General Courts-martial of whom to be composed.

11. Regimental Courts-martial may be convened by the commanding officer of the corps, and shall consist of not less than three members of the corps.

Regimental Courts martial.

12. The proceedings of Courts-martial convened under this Act shall be conducted according to the laws and customs applicable to Courts-martial held under the said Articles of war, except so far as the same are inconsistent with the provisions of this Act.

Procedure of Courts-martial held under this Act.

Withdrawal from Corps.

13. Any person enrolled as a member of a corps of Volunteers, whether he shall have been elected or commissioned as an officer in such corps or not, may, except whilst on actual duty quit the corps upon giving to the officer commanding the corps seven days, previous notice in writing of his intention so to do, or without such notice if the commanding officer of the corps shall consider it reasonable and allow him so to do.

Power to quit the corps.

14. Every commission to any member of a corps Volunteers appointing him an officer in such corps shall cease upon his retirement or dismissal from the corps.

Commissions to officers to cease on retirement or dismissal.

15. Every member of a corps of Volunteers who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores, or at the public expense, shall, upon his quitting such corps,

Delivery of arms belonging to Government by members quitting the corps

or upon his dismissal therefrom,

or whenever he shall be required so to do by the commanding officer of the corps,

or whenever the corps shall be disbanded,

deliver up to the commanding officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted.

and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court-martial to be assembled for that purpose by the commanding officer of the corps. A copy of such adjudication, signed by the president of the Court-martial, shall be sent to the principal Court of original civil jurisdiction in the district in which the adjudication shall have been given, and shall be executed by such Court as if it were a decree for money under the Code of Civil Procedure.

Local Limits of Service.

16. No member of a corps of Volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the corps to which he belongs shall have been constituted ; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

No member bound to serve beyond certain distance.

Rules.

17. The commanding officer of every corps of Volunteers may frame such general rules as he may think fit for regulating the times at which, and the manner in which, the duties of the corps and of the several members or detachments thereof shall be discharged.

Commanding Officer to frame rules which shall be binding on the members.

Such rules, when sanctioned by the Local Government, shall be binding on the corps and on the several members thereof.

Penalties.

18. If any member of a corps of Volunteers, being warned for actual duty other than drill or parade, shall, without reasonable excuse, neglect to attend such duty, he shall be liable, upon conviction by a general Court-martial, to a fine not exceeding one hundred rupees, or to simple dismissal from the corps, or to dismissal from the corps as unworthy to belong to it.

Not attending actual duty other than drill or parade.

19. If any member of such corps shall, without reasonable excuse, neglect to attend drill or parade at such times, as may be appointed for that purpose,

Not attending drill or parade.

or shall be guilty of any neglect of duty or other military offence which in the judgment of the commanding officer of the corps will be sufficiently punished by a small fine,

Other minor military offence.

he shall be liable to pay such fine, not exceeding fifty rupees, as a Regimental Court-martial shall impose.

20. If any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court-martial, within such time as shall be fixed by the commanding officer of the corps, he may be dismissed by the said commanding officer from the said corps ; and every such dismissal shall be recorded and reported to the Local Government.

Punishment for non-payment of fine.

21. Whoever assaults or resists, or abets within the meaning of the Indian Penal Code any person in assaulting or resisting, any member of such corps in the discharge of his duty, shall be punishable, on conviction before a Magistrate, with fine not exceeding two hundred rupees, or with imprisonment for any term not exceeding six months, or with both.

Penalty for assaulting or resisting Volunteers in discharge of their duty.

22. In default of payment of any fine imposed by a Court-martial under this Act, a copy of the sentence of the

Recovery of fines.

president of such Court, may be sent to a Magistrate in the presidency town or the district in which the fine shall have been imposed, who shall thereupon cause the fine to be recovered as if he had himself imposed it.

Fines imposed under section twenty-one may be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.*

Powers of Volunteers.

Power to disarm persons;

23. Any member of a corps of Volunteers, whenever he may be in discharge of his duty as a member of the corps, and wheresoever he may then be, may disarm any person not being in Her Majesty's military or naval service or a police-officer, found between sunset and sunrise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other warlike instrument, without a pass or license for that purpose from the Commissioner of Police or other officer authorized by Government to grant the same;

and may also disarm any person found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place;

and may also apprehend and deliver over to a police-officer any person so found armed in order that he may be dealt with according to law;

and to apprehend and deliver to police.

and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law, or to the orders of Government.

Forfeiture of weapons seized.

Power to prevent disturbances of the public peace.

24. Any member of such corps, whenever he is on duty, may prevent any disturbance of the public peace, and disperse any persons whom he may find assembled together to the number of five or more without reasonable cause between sunset and sunrise in any public street, thoroughfare, or other public place in which such member of the said corps may be in the discharge of his duty,

To disperse unlawful assemblies.

and may also apprehend any person reasonably suspected of having committed, or being about to commit, any offence against the State, or if having abetted within the meaning of the Indian Penal Code, or being about to abet, any other person, in the commission of such offence; and deliver him over to some police-officer.

To apprehend certain suspected persons.

* See Act XII of 1891.

Miscellaneous.

Exemption from horse-tax.

25. Every mounted officer, and every mounted orderly of a corps of Volunteers, and every member of such corps, while he belongs to a troop of cavalry in such corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any municipal or other tax imposed upon horses.

Suits for things done in pursuance of this Act.

26.* No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

*Repealed, so far as it relates to the limitation of suits, by Act IX. of 1871.

COORG COURTS ACT.

EXTRACTS.

ACT. NO. XXV. OF 1868.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH OCTOBER 1868.

An Act to define the jurisdiction of the Courts in Coorg.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Civil and Criminal Courts in the Province of Coorg ; It is hereby enacted as follows :—

* * * * *

Criminal Jurisdiction.

Chief executive administration in criminal matters.

21. For purposes of criminal jurisdiction, the Superintendent of Coorg shall be taken to be the chief officer charged with the executive administration of a district in criminal matters.

Power to appoint Session Judge.

22. The Governor-General of India in Council may, from time to time, appoint any subject of Her Majesty to be Session Judge of Coorg, and may also, from time to time, suspend or remove any person so appointed.

The Session Judge shall, as often as may be necessary for the trial of offenders, hold sessions in the said Province :

Provided that he and the Judicial Commissioner respectively may hear and determine appeals beyond the limits of the same Province.

Appeals from sentences of Superintendent and officers vested with full powers.

23. Appeals from sentences and orders passed by the Superintendent or by any officer subordinate to him exercising full powers of a Magistrate, from which an appeal is allowed under the Code of Criminal Procedure, shall lie to the Judicial Commissioner, and shall be heard and determined by him :

Provided that nothing herein contained shall be deemed to prevent the Judicial Commissioner from exercising under the said Code all or any of the powers of the High Court vested in him.

ADMINISTRATOR-GENERAL'S ACT.

EXTRACTS.

ACT NO. II. OF 1874.

RECEIVED THE G.-G.'s ASSENT ON THE 10TH FEBRUARY 1874.

An Act to consolidate and amend the law relating to the Office and duties of Administrator General.

* * * *

10. It is hereby declared to be an offence punishable in manner provided by section one hundred and sixty-eight of the Indian Penal Code, for any Administrator-General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as appears to him to be expedient for the due management of the estates which come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator-General as trustee of such estates.

Penalty for trading.

Exceptions.

PRESIDENCY MAGISTRATES' ACT.

ACT NO. IV. OF 1877.

*An Act to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency-towns.**

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Fees for summonses and warrants.

Power to remit fees.

* The whole Act, except sec. 57, has been repealed by Act X. of 1882 (Criminal Procedure Code).

CRIMINAL PROCEDURE HIGH COURTS.

ACT NO. X. OF 1875.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH MARCH 1875.

*An Act to regulate the Procedure of the High Courts in the exercise of their original criminal jurisdiction.**

Advocate General may exhibit informations.

144. The Advocate-General may, with the previous sanction of the Governor-General in Council or the Local Government, exhibit to the local High Court, against persons subject to the jurisdiction of the said Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the Court of Queen's Bench or Exchequer.

Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said High Courts respectively will admit.

All fines, penalties, forfeitures, debts, and sums of money recovered or levied under or by virtue of any such information, shall belong to the Government of India.

Power to enter *Nolle Prosequi*.

146. At any stage of any proceeding under this Act, before the return of the verdict, the Advocate General may, if he think fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the information or charge; and thereupon all proceedings on such information or charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

* The whole Act, except secs. 144, & 146, (except so much as relates to information)

DRAMATIC PERFORMANCES ACT.

ACT NO. XIX. OF 1876.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH DECEMBER 1876.

An Act for the better control of Public Dramatic Performances.

Preamble.

WHEREAS it is expedient to empower the Government to prohibit public dramatic performances which are scandalous, defamatory, seditious, or obscene : It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Dramatic Performances Act, 1876 :"

Local extent.

Commencement.

It extends to the whole of British India ; And it shall come into force at once.

"Magistrate" defined.

2. In this Act "Magistrate" means, in the Presidency Towns, a Magistrate of Police, and elsewhere the Magistrate of the District.

Power to prohibit certain dramatic performances

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

(*a*) of a scandalous or defamatory nature, or

(*b*) likely to excite feelings of disaffection to the Government established by law in British India, or

(*c*) likely to deprave and corrupt persons present at the performance,

the Local Government, or outside the Presidency Towns and Rangoon, the Local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

Explanation.—Any building or enclosure to which the public are admitted to witness a performance on payment of money shall be deemed a "public place" within the meaning of this section.

Power to serve order of prohibition.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room, or place in which such performance is intended to take place ; and any person on whom such copy is served, and who does, or willingly per-

mits, any act in disobedience to such order, shall be punished, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine, or with both.

Penalty for disobeying order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

Power to notify order.

6. Whoever, after the notification of any such order—

Penalty for disobeying prohibition.

(*a*) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(*b*) in any manner assists in conducting any such performance, or

(*c*) is in wilful disobedience to such order present as a spectator during the whole or any part of any such performance, or

(*d*) being the owner or occupier, or having the use of, any house, room, or place, opens, keeps, or uses the same for any such performance, or permits the same to be opened, kept, or used for any such performance,

shall be punishable, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to call for information.

7. For the purpose of ascertaining the character of any intended public dramatic performance, the Local Government or such officer as it may specially empower in this behalf may apply to the author, proprietor, or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the Local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

Power to grant warrant to police to enter and arrest and seize.

8. If any Magistrate has reason to believe that any house, room, or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of

police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room, or place, and to take into custody all persons whom he finds therein, and to seize all scenery dresses, and other articles found therein, and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of prosecutions under Penal Code, sections 124A and 294.

9. No conviction under this Act shall bar a prosecution under section 124A or section 294 of the Indian Penal Code.

Power to prohibit dramatic performances in any local area, except under license.

10. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor-General in Council, declare by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may specially empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits any act in disobedience to such order, he shall be punishable, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine, or with both.

Powers exercisable by Governor-General.

11. The powers conferred by this Act on the Local Government may be exercised also by the Governor-General in Council.

Exclusion of performances at religious festivals.

12. Nothing in this Act applies to any *jatras* or performances of a like kind at religious festivals.

INDIAN EXPLOSIVES.

ACT NO. IV. OF 1884.

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

An Act to regulate the manufacture, possession, use, sale, transport, and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession' use, sale, transport, and importation of explosives; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Indian Explosives Act, 1884; and

Local extent.

(2) It extends to the whole of British India.

Commencement.

2. (1) This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints :

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

3. [*Repealed by Act X of* 1889].

Definitions.

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

(1) "explosive"—

(*a*) means gunpowder, nitro-glycerene, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fire and every other substance, whether similar to those above-mentio or not, used or manufactured with a view to produce a practical e ct by explosion, or a pyrotechnic effect ; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined :

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, and the process of re-making, altering, or repairing any explosive :

(3) "vessel" includes every ship, boat, and other vessel used in navigation, whether propelled by oars or otherwise :

(4) "carriage" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled :

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel: provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship:

(6) "import" means to bring into British India by sea or land.

Power to make rules as to licensing of the manufacture, possession, use, sale, transport, and importation of explosives.

5. (1) The Governor-General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor-General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport, and importation of explosives, or any specified class of explosives.

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

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses must be made, and the matters to be specified in such applications;

(*d*) the form in which, and the conditions on and subject to which, licenses must be granted;

(*e*) the period for which licenses are to remain in force; and

(*f*) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may, by the rules, impose penalties on all persons manufacturing, possessing, using, selling, transporting, or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

(*a*) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;

(*b*) in the case of a person so possessing, using, or transporting an explosive, a fine which may extend to one thousand rupees;

(*c*) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and

(*d*) in any other case, two hundred rupees.

Power for Governor-General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*,—

(*a*) prohibit, either absolutely or subject to conditions, the manufacture, possession, or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor-General in Council, it is expedient for the public safety to issue the notification ; and

(*b*) cancel any notification under this section.

(2) The officers of sea customs at every port shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same : and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing, or importing an explosive in contravention of a notification issued under this section, shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

Power to make rules conferring powers of inspection, search, seizure, detention and removal.

7. (1) The Governor-General in Council, or the Local Government with the previous sanction of the Governor-General in Council, may make rules consistent with this Act, authorizing any officer, either by name or in virtue of his office—

(*a*) to enter, inspect and examined in any place, carriage, or vessel in which an explosive is being manufactured, possessed, used, sold, transported, or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported, or imported in contravention of this Act or of the rules made under this Act ;

(*b*) to search for explosives therein ;

(c) to take samples of any explosive found therein on payment of the value thereof ; and

(*d*) to seize, detain, remove, and, if necessary destroy any explosive found therein.

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

Notice of accidents.

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed, or used, or any carriage or vessel either conveying an explosive, or on or from which an explosive is being loaded or unloaded, any accident by explosion, or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police station.

Inquiry into accidents.

9. (1) Whenever, in the opinion of a District Magistrate, Subdivisional Magistrate, or any other Magistrate specially empowered by the Local Government in this behalf, an inquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purpose of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

(3) The powers conferred on a Magistrate by this section may, in a Presidency town, be exercised by the Commissioner of Police, as well as by any Magistrate specially empowered in this behalf under sub section (1).

Forfeiture of explosives.

10. When a person is convicted of an offence punishable under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient, or substance, shall, with the receptacles containing the same, be forfeited.

Distress of vessel.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and

sale of the vessel, and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.

Abetment and attempts.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence, and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

Power to arrest without warrant persons committing dangerous offences.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where any explosive is manufactured, or stored, or any railway or port, or any carriage, ship, or boat, may be apprehended without a warrant by a police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place, or by an agent or servant of, or other person authorized by the railway administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

Saving for manufacture, possession, use, sale, transport, or importation by Government.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport, or importation of any explosive—

(*a*) by order of the Government, or

(*b*) by any person employed under the Government in the execution of this Act or as a keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

Saving of Indian Arms Act, 1878.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878:

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport, or importation of an explosive, may, if empowered in this behalf by the rules under which the license is granted, direct, by an order written on the license, that it shall have the effect of a like license granted under the said Indian Arms Act.

Saving as to liability under other law.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act; or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules:

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

Extension of definition of "explosive" to other explosive substances.

17. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor-General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act, and the provisions of this Act (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

Procedure for making, publication, and confirmation of rules.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

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

(4) The authority making the rules 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) A rule made under this Act shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

LAND ACQUISITION ACT.

[*EXTRACTS.*]

ACT NO. I. OF 1894.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND FEBRUARY 1894.

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

* * * * *

Publication of preliminary notification and powers of officers thereupon.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notfiication to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to mark such levels, boundaries and line by placing marks and cutting trenches ;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle ;

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Land to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

* * * * *

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

LAND ACQUISITION (MINES.)

[*EXTRACTS.*]

ACT NO. XVIII. OF 1885.

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 ;* It is hereby enacted as follows :—

Preamble.

* * * * *

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 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.

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

12. If any owner, lessee or occupier of any such mines or works 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.

Penalty for refusal to allow inspection.

* Now Act No. I. of 1894.

EXECUTION OF CAPITAL SENTENCES.

ACT NO. V. OF 1893.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH MARCH 1893.

An Act to legalise in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor-General in Council has in such territory.

WHEREAS a capital sentence is occasionally passed by a British Court exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor-General in Council has in such territory ;

And whereas there may be in such territory no secure place for the confinement of a prisoner under sentence of death or no suitable appliances for his execution in a decent and humane manner ;

It is hereby enacted as follows:—

Execution in British India of certain capital sentence not ordinarily executable there.

1. When a British Court in the exercise of such jurisdiction as is referred to in the first paragraph of the preamble to this Act—

(*a*) has sentenced any person to death, and,

(*b*) being of opinion that such sentence should for any such reason as is referred to in the second paragraph of the said preamble be executed in British India, has issued its warrant for the execution of such sentence to the superintendent or keeper of a jail in British India,

such superintendent or keeper shall, on receipt of such warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1882.

Jails in which sentences are to be executed.

2. The jails of which the superintendents or keepers are to execute sentences under any such warrants shall be such as the Governor-General in Council, or a Local Government authorized by him in this behalf, may by general or special order direct.

Certain tribunals to be deemed British Courts under Act.

3. The tribunals mentioned in the proviso to section 19 of the Prisoners Act, 1871, shall be deemed to be British Courts for the purposes of this Act :

Provided that every warrant issued under this Act by any such Court shall be signed by that one of the presiding Judges thereof who is the "officer of Government" mentioned in such proviso.

ELEPHANTS PRESERVATION ACT.

ACT NO. VI. OF 1879.

RECEIVED THE G.-G.'s ASSENT ON THE 22ND MARCH 1879.

An Act for the preservation of wild elephants.

Preamble.

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Elephants Preservation Act, 1879 :"

Local extent.

It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma, and Coorg ;

and the Local Government may, with the previous sanction of the Governor-General in Council, extend it to any other local area by notification in the local official Gazette.

Commencement.

So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April, 1879.

Repeal.

2. The words "kills or catches elephants," in section 25, clause (*i*), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (*j*), of the same Act, shall be repealed in every local area to which this Act extends or is extended.

Killing and capture of wild elephants prohibited.

3. No person shall kill, injure, or capture or attempt to kill, injure, or capture, any wild elephant unless—

(*a*) in defence of himself or some other person ;

(*b*) when such elephant is found injuring houses or cultivation, or upon, or in the immediate vicinity of, any main public road or any railway or canal ; or

(*c*) as permitted by a license granted under this Act.

Rights of Government with respect to certain elephants and tusks.

4. Every wild elephant captured, and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government.*

* See Act No. II of 1882.

5. The Collector or Deputy Commissioner of any district may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill or to capture, or to kill and capture, wild elephants in such district:

License to kill and capture wild elephants.

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

Power of Local Government.

6. The Local Government may from time to time, subject to the control of the Governor-General in Council,

to declare what are main roads and canals,

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

and to make rules as to licenses.

make rules consistent with this Act for regulating.

(*a*) the grant and renewal of licenses under this Act,

(*b*) the fees (if any) in money, tusks, or captured elephants to be charged on such grant and renewal,

(*c*) the time during which such licenses shall continue in force, and

(*d*) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Penalty for contravening section 3.

7. Whoever, in contravention of section three, kills, injures, or captures, or attempts to kill, injure, or capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void, and shall be delivered up to the convicting Magistrate.

License to be produced and shewn on requisition of certain officers.

8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring, or capturing, or attempting to kill, injure, or capture, any wild elephant, except in the cases men-

tioned in section three, clauses (*a*) and (*b*), may require him to produce and shew a license granted to him under this Act.

Any person who, on such request, wilfully refuses or is unable to produce and shew such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

Limitation of prosecution.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

Recovery of fees.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

HACKNEY-CARRIAGE ACT.

ACT NO. XIV. OF 1879.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH SEPTEMBER 1879.

An Act for the regulation and control of Hackney-Carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments ; It is hereby enacted as follows :—

Preamble.

Short title.

1. This Act may be called "The Hackney-Carriage Act, 1879 :"

Commencement.

And it shall come into force at once ;

Saving.

But nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule, made in exercise of any such power.

Interpretation clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire ; and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners, constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Panjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer, and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law :

Confirmation and publication of rules.

Provided that the Local Government may, at any time, rescind any such rule.

Power of Local Government to rescind rules.

4. The Local Government of any of the said territories may, from time to time, subject to the control of the Governor-General in Council, make rules for the Regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it.*

Power to make rules for cantonments.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Power to extend operation of rules beyond limits of municipality or cantonment.

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor-General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor-General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

The rules to be made under section three or section four may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf ;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor ;

(*d*) regulate the description of animals, harness, and other things to be used with licensed carriages, and the condition in which

* See Act No. XIII of 1889.

such carriages, and the animals, harness, and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise ;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness, and other things are kept ;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension ;

(*g*) provide for the numbering of such carriages ;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same ;

(*i*) appoint places as stands for hackney-carriages, and prohibit such carriages waiting for hire except at such places ;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage, and prescribe the minimum speed at which such carriages when hired by time shall be driven ;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage ;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed in side such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list ;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and de-

bited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen ; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If at the time any dispute mentioned in section nine arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hire of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

SUPPLEMENT.

OFFENSIVE WEAPONS IN MALABAR.

ACT NO. XXIV. OF 1854.

RECEIVED THE G.-G.'S ASSENT ON THE 28TH OCTOBER 1854.

An Act to prohibit the possession of certain offensive weapons in Malabar.

Preamble.

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the presidency of Fort St. George; It is enacted as follows:—

Use of war-knives prohibited.

1. The use of the Ayudha Katti or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar.

Fine for possessing, purchasing, &c., war-knives.

2. Any person who shall be found in possession of an Ayudha Katti or war-knife, or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, an Ayudha Katti or war-knife, or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated.

Power to search for war-knives.

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his police-officers, acting under his warrant, in any house or other place in which any Ayudha Katti or war-knife, or any similar offensive weapon, may be supposed to be contrary to this Act; and any such Ayudha Katti or war-knife which shall be found may be seized and confiscated.

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European assistants, the powers conferred by this section.

Penalty for resisting search.

Any person who shall resist or oppose such search or seizure, or forcibly with stand any police-officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

FOREST OFFENCE.

M. ACT NO. V. OF 1882.

PASSED ON THE 11TH OCTOBER 1882.

An Act to make provision for the Protection and Management of Forests in the Presidency of Madras.

WHEREAS it is expedient to make provision for the protection and management of Forests in the Presidency of Madras; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Madras Forest Act, 1882."

Local extent.

It extends to all territories for the time being subject to the Government of Fort St. George, except the Scheduled Districts, provided that the Governor in Council may, by Notification in the Fort St. George Gazette, exempt any place from the operation of the whole or any portion of this Act, but not so as to affect any thing done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption, and may in like manner vary or cancel such Notification;

Commencement.

and it shall come into force on such day as the Governor in Council may, by Notification in the Fort St. George Gazette, direct.

Interpretation-clause.

2. In this Act, and in all Rules made hereunder, unless there is something repugnant in the subject or context,—

"Government."

"Government" means the Governor of Fort St. George in Council:

"Collector."

"Collector" means the chief executive Revenue-officer of a district:

"Forest-officer."

"Forest-officer" means any person appointed by name or as holding an office by or under the orders of the Government to be—

a Conservator, Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest-ranger, Forester, Forest-guard;

or to discharge any function of a Forest-officer under this Act or any Rule made hereunder:

" District Forest-officer" means the chief Forest-officer of a district or of a portion of a district, if in independent charge of such portion :

" District Forest-officer."

" Tree" includes stumps, bamboos and brush-wood :

" Tree."

" Timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not :

" Timber."

Note.

The accused were convicted of removing ' timber' vested in the Forest Department and the convicting Magistrate ordered it to be confiscated :— *Held*, that having been already permanently fastened to a building it had ceased to be timber within the meaning of sec. 2 of the Forest Act, and the order for confiscation was illegal.—I. L. R., 9 Madr. 378.

" Forest-produce" includes the following things when found in, or brought from, a forest (that is to say)—

" Forest-produce."

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, fibres, leaves, moss, flowers, fruits, seeds, roots, galls, spices, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey and wax, skins, tusks, bones and horns :

" Forest-offence" means an offence punishable under this Act or any Rule made hereunder ;

" Forest-offence."

" Cattle" includes elephants, camels, buffaloes, horses, mares, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids :

" Cattle."

" River" includes streams, canals, creeks, and other channels, natural or artificial :

" River."

" Land at the disposal of Government," includes all unoccupied land, whether assessed or unassessed ; but does not include land the property of land-holders as defined by section one of Act VIII of 1865, Madras, (namely) all persons holding under a sanad-i-milkeut-istimrar, all other zamindars, shrotriemdars, jagirdars, inamdars, and all persons farming lands from the above persons or farming the land revenue under Government : also all holders of land under raiyatwar settlements, or in any way subject to the payment of land-revenue direct to Government and all other registered holders of land in proprietary right.

" Land at the disposal of Government."

" Magistrate" means a Magistrate of the first or second class and includes a Magistrate of the third class when he is specially empowered by Government to try forest-offences :

" Magistrate."

"Imprisonment." "Imprisonment" means imprisonment of either description as defined in the Indian Penal Code.

CHAPTER II.

RESERVED FORESTS.

Power to reserve forests. 3. The Governor in council may constitute any land at the disposal of Government a reserved forest in the manner hereinafter provided.

Notification by the Governor in Council. 4. Whenever it is proposed to constitute any land a reserved forest, the Governor in Council shall publish a Notification in the Fort St. George Gazette and in the official Gazette of the district—

(*a*) specifying, as nearly as possible, the situation and limits of such land ;

(*b*) declaring that it is proposed to constitute such land a reserved forest ;

(*c*) appointing an officer (hereinafter called the Forest Settlement-officer) to enquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest-produce of such land, and to deal with the same as provided in this chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person other than a Forest-officer ; but a Forest-officer may be appointed by the Governor in Council to attend on behalf of Government at the enquiry prescribed by this chapter.

Suits barred. 5. Except as hereinafter provided, no Civil Court shall, between the dates of the publication of the Notification under section four and of the Notification to be issued under section sixteen, entertain any suit to establish any right in or over any land, or to the forest-produce of any land, included in the Notification published under section four.

Proclamation by Forest Settlement-officer. 6. When a Notification has been issued under section four, the Forest Settlement-officer shall publish in the official Gazette of the district, and at the head-quarters of each taluk in which any portion of the land included in such Notification is situate, and in every town and village in the neighbourhood of such land, a Proclamation—

(*a*) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the reserved forest ;

(*b*) setting forth the substance of the provisions of section seven ;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation in the official Gazette of the district and requiring every person claiming any right referred to in section four, either to present to such officer, within such period, a written notice specifying, or to appear before him within such period and state, the nature of such right, and in either case to produce all documents in support thereof.

The Forest Settlement-officer shall also serve a notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the land proposed to be constituted a reserved forest, or on his recognized agent or manager. Such notice may be sent by registered post to persons residing beyond the limits of the district in which such land is situate.

Bar of accrual of forest rights.

7. During the interval between the publication of such Proclamation and the date fixed by the Notification under section sixteen

no right shall be acquired in or over the land included in such Proclamation, except under a grant or contract in writing made or entered into by, or on behalf of, the Government, or by, or on behalf of, some person in whom such right, or power to create the same, was vested when the Proclamation was published, or by succession from such person,

Prohibition of clearings, &c.

and no fresh clearings for cultivation or for any other purpose shall be made on such land. No patta shall, without the previous sanction of the Governor in Council, be granted on behalf of Government in such land, and every patta granted without such sanction shall be null and void.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement-officer.

Enquiry by Forest Settlement-officer.

8. The Forest Settlement-officer shall take down in writing all statements made under section six, and shall enquire into all claims made under that section, recording the evidence in the manner prescribed by the Code of Civil Procedure in appealable cases. The Forest Settlement-officer shall at the same time consider and record any objection which the Forest-officer (if any) appointed under section four may make to any such claim.

Powers of Forest Settlement-officer.

9. For the purpose of such enquiry, the Forest Settlement-officer may exercise the following powers (that is to say) :—

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same ; and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure for compelling the attendance of witnesses and the production of documents.

Claims to rights of occupancy and ownership.

10. In the case of a claim to a right in or over any land other than the following rights :—

(*a*) a right of way ;

(*b*) a right to a water-course, or to use of water ;

(*c*) a right of pasture ; or

(*d*) a right to forest-produce ;

the Forest Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Admitted claims.

i. If such claim is admitted wholly or in part, the Forest Settlement officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(i) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and

(iv) the Forest Settlement-officer with the consent of the claimant, or the Court (as defined in the said Act) with the consent of the claimant and of the Collector of the district, may award compensation by the grant of rights in or over land, or by the payment of money or both.

Rejected claims—Appeals.

ii. If such claim is rejected wholly or in part, the claimant may within thirty days from the date of the order prefer an appeal to the District Court in respect of such rejection only. Provided that the Governor in Council may, on just and reasonable cause for the same being shown, extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the said Court to entertain such appeal beyond the limit above specified. If the Court decides that the claim or such part thereof as has been rejected should be admitted the Forest Settlement-officer shall proceed to deal with it in like manner as if it had been in the first instance admitted by himself.

iii When a claim has been admitted in the first instance wholly or in part, a like appeal may be preferred on behalf of Government by the Forest-officer appointed under section four, or other person generally or specially empowered by the Government in this behalf.

Claims to rights of way, water-course, pasture, and to forest-produce.

11. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), (*c*) and (*d*) of section ten, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim as far as may be

necessary to define the nature, incidents and extent of the rights claimed, and admitting or rejecting such claim wholly or in part.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position and area of such land, and the designation and position of such buildings.

Where the right is a right to forest-produce, he shall also record whether the forest-produce obtained by the exercise of such right may be sold or bartered.

12. When the Forest Settlement-officer has admitted wholly or in part, and recorded under section eleven, a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right—

Provision for rights of pasture or to forest-produce admitted.

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant;

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce (as the case may be), subject to such rules as may be prescribed by the Governor in Council.

The order passed under clause (*b*) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the season during which, such pasture is permitted; or

the quantity of timber or other forest-produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted; and

such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

13. Whenever any right of pasture or to forest-produce admitted under section eleven is not provided for in one of the ways prescribed in section twelve, the Forest Settlement-officer shall, subject to such rules as the Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of rights in or over land or in such other manner as such officer thinks fit.

Commutation of such rights.

14. The claimant, or the Forest-officer appointed under section four, or any other person generally or specially empowered by the Government in this behalf, may, within sixty days from the date of any order passed by the Forest Settlement-officer under sections eleven, twelve and thirteen, present an appeal from such order to a Forest Court constituted as here-

Appeal from order passed under sections 11, 12 and 13.

inafter provided, or, where no such Court is constituted, to such officer of the Revenue Department of not less than twelve year's standing as the Governor in Council may, from time to time, by Notification in the *Fort St. George Gazette*, appoint by name or as holding an office, to hear appeals from such orders.

In disposing of such appeals the Revenue-officer appointed as aforesaid shall be guided by the provisions of sections thirty-nine and forty of this Act.

Appeal under section fourteen.

15. Every appeal under section fourteen shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the Appellate authority.

Notification declaring forest reserved.

16. When the following events have occurred (viz.) :—

(*a*) the period fixed under section six for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement-officer ; and

(*b*) if such claims have been made, the period fixed by sections ten and fourteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the Appellate authority ; and

(*c*) all proceedings prescribed by section ten have been taken, and all lands (if any) to be included in the proposed forest which the Forest Settlement-officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act ;

the Governor in Council may publish a Notification in the *Fort St. George Gazette*, specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date to be fixed by such Notification.

The Forest Settlement-officer shall, before the date so fixed, publish such Notification in the manner prescribed for the Proclamation under section six.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.

17. Rights in respect of which no claim has been preferred under section six shall thereupon be extinguished, unless, before the publication of such Notification, the person claiming them has satisfied the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section six ; in which case the Forest Settlement-officer shall proceed to dispose of the claim in the manner hereinbefore provided.

18. No right of any description shall be acquired in or over a reserved forest, except under a grant or contract in writing made by or on behalf of the Government or by or on behalf of some person in whom such right, or the power to create such right, was vested when the Notification under section sixteen was published or by succession from such person :

No right acquired over reserved forest except as here provided.

Provided that no patta shall without the previous sanction of the Governor in Council be granted on behalf of Government for any land included within a reserved forest, and every patta granted without such sanction shall be null and void.

19. Notwithstanding anything herein contained, no right continued under section twelve shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Government : provided that, when any such right is continued for the beneficial enjoyment of any land or buildings, it may be sold or otherwise alienated with such land or buildings without such sanction. Any alienation of right in contravention of this section shall be null and void.

Rights continued under section 12 not to be alienated without sanction.

No forest-produce obtained in exercise of any right continued under section twelve shall be sold or bartered except to the extent defined by the order recorded under sections eleven and twelve.

Any person selling or bartering any forest-produce in contravention of this section shall be punished with fine which may extend to two hundred Rupees.

20. The District Forest-officer may, from time to time, with the previous sanction of the Government, stop any public or private way, or water-course in a reserved forest : provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed in lieu thereof.

Power to stop ways and water courses in reserved forest.

Penalties for trespass or damage in reserved forests, and acts prohibited in such forests.

21. Any person who—

(*a*) makes any fresh clearing prohibited by section seven ; or

(*b*) sets fire to a reserved forest, or kindles, or leaves burning, any fire in such manner as to endanger the same ; or who, in a reserved forest,

(*c*) kindles, keeps, or carries any fire except at such seasons and in such manner as the District Forest-officer may from time to time notify ;

(*d*) trespasses, or pastures cattle, or permits cattle to trespass ;

(*e*) fells, girdles, marks, lops, taps, uproots or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same ;

(*f*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest produce ;

(*g*) clears, cultivates or breaks up any land for cultivation or an other purpose ; or,

(*h*) in contravention of any rules made by the Governor in Counci hunts, shoots, fishes, poisons water or sets traps or snares ;

(*i*) damages, alters or removes any wall, ditch, embankment, fence hedge or railing ;

shall be punished with imprisonment for a term which may extend tc six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Nothing in this section shall be deemed to prohibit.

Acts exempted from prohibition contained in this section.

(*a*) any act done in accordance with any rule made by the Government, or with the permission in writing of the District Forest-officer, or of an officer authorized by him to grant such permission ; or

(*b*) the exercise of any right continued under section twelve or created by grant or contract in the manner described in section eighteen.

Provided that this section shall not be held to interfere with such working of the forest as may be ordered by the District Forest-officer.

Suspension of rights in reserved forests.

22. Whenever fire is caused wilfully or negligently in a reserved forest, the Government may (notwithstanding that a penalty has been inflicted under section twenty-one) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Persons bound to assist Forest-officer and Police-officer.

23. Every person who exercises any right in a reserved forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest ; and

every person who is employed by any such person in such forest ; and

every village officer or person in any village ; contiguous to such forest who is employed by the Government ;

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police Station-house officer any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence ; and shall assist any Forest-officer or Police-officer ; demanding his aid—

(*a*) in extinguishing any fire occurring in such forest ;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;

(*c*) in preventing the commission in such forest of any forest-offence ; and,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Power to declare forest no longer reserved.

24. The Government may, with the previous sanction of the Governor-General in Council by Notification in the *Fort St. George Gazette* direct that, from a date to be fixed by such Notification, any forest or any portion thereof reserved under this Act shall cease to be reserved.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

Forest reserved previous to the passing of this Act.

25. The Government may, by Notification in the *Fort St. George Gazette*, declare any forest which has been reserved by order of the Government previous to the day on which this Act comes into force, to be a reserved forest under this Act :

Provided that if the rights of the Government or of private persons to or over any land or forest-produce in such forest have not been enquired into, settled and recorded in a manner which the Government thinks sufficient, the same shall be enquired into, settled and recorded in the manner provided by this Act for reserved forests, before the date on which the Notification declaring the forest to be reserved takes effect.

All questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared hereunder, and the provisions of this Act relating to reserved forests shall apply to such forest.

CHAPTER III.

PROTECTION OF LAND AT THE DISPOSAL OF GOVERNMENT NOT INCLUDED IN RESERVED FORESTS.

Power to make rules

26. Subject to all rights now legally vested in individuals and communities, the Governor in Council may for any district or portion of a district make rules to regulate the use of the pasturage or of the natural produce of land at the disposal of Government and not included in a reserved forest. Such rules may, with respect to such land—

(*a*) regulate or prohibit the clearing or breaking up of land for cultivation or other purposes ;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires ;

(*c*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection and removal of natural produce ;

(*d*) regulate or prohibit the quarrying of stone, the boiling of catechu, or the burning of the lime or charcoal ;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing;

(*f*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares;

(*g*) regulate the sale or free grant of timber or other natural produce; and

(*h*) prescribe the fees, royalties or other payments for such timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied.

The Governor in Council may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to one month or fine which may extend to two hundred rupees, or both.

Penalties for acts in contravention of rules.

Provided that the Governor in Council may exempt any person or class of persons from the operation of all or any of such rules.

27. Whenever fire is caused wilfully or negligently in any land to which all or any of the rules made under section twenty-six have been extended, the Government may, notwithstanding that a penalty has been inflicted under that section, direct that such land be closed against pasture for such period as it thinks fit:

Power to close land against pasture.

Provided that an area sufficient in extent and in a locality reasonably convenient is left open for the use of persons having rights of pasture in such land.

28 Whoever pastures cattle or permits cattle to trespass in land closed under section twenty-seven, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Penalties.

CHAPTER IV.

OF THE CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS A LIMITED INTEREST.

29. The Governor in Council may from time to time, by Notification, in the *Fort St. George Gazette* and in the official Gazettes of the districts affected thereby regulate or prohibit in any forest or waste land not at the disposal of Government.

On certain lands, the breaking up or clearing for cultivation, &c., may be regulated or prohibited.

(*a*) the breaking up or clearing of land for cultivation;

(*b*) the pasturing of cattle;

(*c*) the firing or clearing of the vegetation;

when such regulation or prohibition appears to be necessary for any of the following purposes:—

First.—For protection against storms, winds, rolling stones, floods and avalanches;

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys, or hilly tracts, the prevention of landships and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

Third.—For the maintenance of a water-supply in springs, rivers and tanks ;

Fourth.—For the protection of roads, bridges, railways and other lines of communication ;

Fifth.—For the preservation of the public health ;

and may alter or cancel such Notification.

The Government may, for any such purpose, construct at their own expense, in or upon any such forest or land, such works as they think fit :

Provided that no such Notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling upon him to show cause, within a reasonable period to be specified in such notice, why such Notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Government.

In case of refusal by owner, Government may take such lands on lease, or acquire them.

30. Whenever the owner of such forest or land may decline to comply with the regulations or directions contained in the said Notification, it shall be incumbent upon the Government, if they resolve to assume control of the said forest or land, to take the said forest or land, or so much of it as they may see fit, on lease from the owner for such term as they may deem it necessary to retain the same under control, and the owner shall be bound either to conclude such lease with the Government or to require that such forest or land shall be acquired for public purposes, and in the latter event the Government shall acquire such forest or land accordingly. If such lease is agreed upon, the amount of annual rent to be reserved and all other questions arising between the owner or persons claiming to be owners and the Government, shall, in case of dispute, be determined in accordance, so far as may be, with the provisions of the Land Acquisition Act, 1870.

Acquisition of forest or land under the Land Acquisition Act.

31. In any case under this chapter in which the Government consider that, in lieu of taking the forest or land under its control, the same should be acquired for public purposes, the Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

Protection of forests at request of owners.

32. The owner of any land or, if there be more than one owner thereof the owners of shares therein, whether divided or not, amounting in aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereon represent in writing to the Collector their desire—

(*a*) that such land be managed on their behalf by the District Forest-officer, as a reserved forest, on such terms as may be agreed upon; or

(*b*) that such land be managed, subject to the control of the Collector, by a person appointed by themselves and approved by the Collector; or

(*c*) that all, or any of the provisions of this Act or rules made thereunder be applied to such land.

The Government may in any such case, by Notification in the *Fort St. George Gazette*, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like Notification.

Management of forests the joint property of Government and other persons.

33. If the Government and any person or persons are jointly interested in any forest or waste-land or in the whole or any part of the produce thereof, the Government may either—

(*a*) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land or produce by the persons so jointly interested, as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land or produce, it may by notification in the *Fort St. George Gazette*, and in the official Gazette of the district, declare that any of the provisions contained in chapters II and III of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

Persons employed to carry out the Act to be deemed Forest-officers

34. All persons employed under sections thirty, thirty-two and thirty-three to carry out the provisions of this Act shall be deemed to be Forest-officer within the meaning of this Act.

CHAPTER V.

CONTROL OF TIMBER IN TRANSIT.

Power to make rules to regulate transit of timber.

35. The Governor in Council may make rules to regulate the transit of all timber or of certain classes of timber within such local limits as may appear to be necessary. Such rules may (among other matters)—

(*a*) prescribe the routs by which alone timber may be imported into and exported from the Presidency of Madras;

(*b*) prohibit the import and export or moving within defined local limits of timber without a pass from the land-holder from whose

lands it was brought, or from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) prescribe the form of such passes and provide for their issue, production, and return;

(*d*) provide for the stoppage, reporting examination and marking of timber in transit within defined local limits or at stations established as hereinafter provided;

(*e*) establish, or authorize the Collector to establish, stations to which such timber shall be taken by those in charge of it for examination, or marking; and the conditions under which such timber shall be brought to, stored at, and removed from, such station;

(*f*) provide for the management and control of such stations, and for regulating the appointment and duties of persons employed thereat;

(*g*) authorize the transport of timber, the property of Government, across any land, and provide for the payment of compensation for any damage done by the transport of such timber;

(*h*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed;

(*i*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person, or by the sale of any timber causing such obstruction;

(*j*) provide for the protection of bridges, locks or other public works, by regulating the floating of timber, and the storing of timber on river banks, and by authorizing the seizure of timber floated or stored in contravention of such rules or by which any damage to such works may have been caused, and the detention and disposal of such timber until compensation has been made for the damage done.

(*k*) regulate the use of property-marks for timber and the registration of such marks; declare the circumstances in which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person; and provide for the levy of fees for such registration.

Penalties for breach of rules made under section thirty five.

36. The Government may, by such rules, prescribe as penalties for the infringement thereof, imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

CHAPTER VI.

THE FOREST COURT.

Appointment and constitution of the Forest Court.

37. Where no Revenue-officer has been appointed to hear appeals under section fourteen the Governor in Council shall from time to time, as occasion may arise, appoint a Forest Court to hear such appeals. The Court shall consist of three members, of whom,

one shall be the Judge of the Court of any district in which any portion of the land, the rights in or over which are in dispute, is situated, or the officer presiding in the principal Civil Court of original jurisdiction of such district,

another shall be the Collector of any such district, or an officer of the Revenue Department of not less than twelve years' standing,

and the third member shall be a person specially selected by the Governor in Council, not holding an office of profit in the service of the Government.

The Judge appointed to be the President.

38. The Judge appointed a member as aforesaid shall be the President of the said Court, and shall make all such orders in the case as may be necessary prior to the hearing of the appeal.

The official members of the Court may be appointed by name or as holding an office.

Hearing of appeals.

39. For the hearing of appeals, the Forset Court shall fix a day and a convenient place in the neighbourhood of the land regarding which, or regarding rights over which, a dispute exists and shall give notice thereof to the parties.

All cases before the Forest Court shall be heard and disposed of, so far as may be, in accordance with the provisions of the Code of Civil Procedure.

Provided that if, on the hearing of any such case, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case shall arise on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court.

And it shall be the duty of the Forest Court to make such reference to the High Court if the question involve any principle of general importance, or affect the rights of a class.

Note.

Excuse of delay.—Where the question was whether the delay in presenting an appeal under the Madras Forest Act could be excused under section 5 of the Limitation Act (XV of 1887), the Collector was of opinion that the delay could not be excused holding that the law applicable to the case was the Forest Act and not the Limitation Act, inasmuch as sec. 6 of the latter Act provides that nothing in that Act shall affect the period of limitation prescribed by any special or local law. *Held* that the Collector was at liberty to excuse the delay under paragraph 2 of section 5 of Act XV of 1877. To do so does not alter the period prescribed by any special law but is merely the exercise of a discretion which is generally applicable and not expressly prohibited.—I. L. R., 10 Madr. 210.

Court to pass orders which shall be final.

40. At the conclusion of the inquiry, and after receipt of the order of the High Court (which shall be binding upon the Forest Court) upon the reference (if any) prescribed by the preceding section, the Forest Court shall proceed to pass such order in the case as it may consider just and proper; and the order passed by the said Court or by the majority of the members of the said Court shall be final.

CHAPTER VII

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

41. When there is reason to believe that a forest-offence has been committed in respect of any timber or forest-produce, such timber or produce, together with all tools, ropes, chains, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police officer.

Report to Magistrate.

Every officer seizing any property under this section shall place on such property, or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that when the timber or forest-produce, with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon

42. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Timber, forest-produce tools, &c., when liable to confiscation.

43. When any person is convicted of a forest offence, all timber or forest-produce in respect of which such offence has been committed, and all tools, ropes, chains, boats, carts and cattle used in committing such

offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Note.—See I. L. R , 9 Madr. 378 noted under sec. 2.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

44. When the trial of any forest-offence is concluded, any timber or forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken possession of by or under the authority of the District Forest-officer; and in any other case may be disposed of in such manner as the Court may order.

Procedure when offender is not known or cannot be found.

45. When the offender is not known or cannot be found, the Magistrate, if he is of opinion that an offence has been committed, may on application in this behalf order the property in respect of which the offence has been committed to be confiscated and taken possession of by or under the authority of the District Forest-officer, or to be made over to any person whom the Magistrate considers to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall cause a notice of any application under this section to be served upon any person who he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

Procedure as to preishable property seized under section forty-one.

46. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section forty-one and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal from orders under section forty-three, forty-four or forty-five.

47. Any person claiming to be interested in property seized under section forty-one may, within one month from the date of any order passed under section forty-three, forty-four or forty-five, present an appeal therefrom which may be disposed of in the manner provided by section 419, of the Code of Criminal Procedure.

Property when to vest in Government.

48. When an order for the confiscation of any property has been passed under section forty-three or forty-five, and the period limited by section forty-seven for presenting an appeal from such order has elapsed, and no such appeal,

has been presented, or when on such an appeal being presented Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized

49. Nothing hereinbefore contained shall be deemed to prevent the District Forest-officer from directing at any time the immediate release of any property seized under section forty-one and the withdrawal of any charge made in respect of such property.

Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary marks.

50. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest-officer ; or

(*c*) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest-officer ; or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or any land to which any provisions of this Act apply ;

shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Power to arrest without warrant.

51. Any Forest-officer or Police officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the nearest Police Station, and the officer in charge of such station shall thereupon act according to law.

Punishment for wrongful seizure or arrest.

52. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, or who vexatiously and unnecessarily arrests any person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

53. Every Forest-Officer and Police-officer shall prevent, and may interfere for the purpose of preventing the Commission of any forest-offence.

Power to prevent commission of offence.

54. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

55. Any Forest-officer specially empowered in this behalf may accept from any person reasonably suspected of having committed any forest-offence other than an offence under section fifty or section fifty-two a sum of money by way of compensation for the offence which may have been committed; and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

Power to compound offences.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

56. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that timber or forest-produce belongs to Government.

CHAPTER VIII.

CATTLE-TRESPASS.

57. Cattle-trespassing in a reserved forest or on lands on which the grazing of cattle has been prohibited by rules made under section twenty-six, or which has been closed under section twenty-seven, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871,* and may be seized and impounded as such, by any Forest-officer or Police-officer.

Cattle-trespass Act, 1871, to apply.

58. The Governor in Council may, by Notification in the *Fort St. George Gazette* direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied, in all or any of the areas to which this Act applies, for each head of cattle impounded under section fifty-seven of this Act, such fines as he thinks fit, but not exceeding the following (that is to say):—

Power to alter fines fixed by that Act.

* See Act I of 1891, which amends this Act.

	Rs.	A.	P.
For each elephant	10	0	0
For each buffalo or camel	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, calf, or heifer.	1	0	0
For each ass, pig, ram, ewe, sheep, lamb, goat, or kid.	0	8	0

CHAPTER IX.

FOREST-OFFICERS.

Governor in Council may invest Forest officers with certain powers.

59. The Governor in Council may invest any Forest-officer by name, or as holding an office with the following powers (that is to say) :—

(*a*) the powers of a Settlement-officer under the Madras Boundaries Act No. XXVIII of 1860;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to hold enquiries into Forest-offences, and in the course of such enquiries to receive and record evidence, and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure;

(*d*) power to accept compensation for forest-offences under section fifty-five; and may withdraw any powers so conferred.

Any evidence recorded under clause (*c*) of this section shall be admissible in any subsequent trial before a Magistrate of the alleged offender: Provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333, section 334 or section 335 of the Code of Criminal Procedure.

Forest officers deemed public servants.

60. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

61. No suit or criminal prosecution shall lie against any public servant, for anything done or omitted in good faith under this Act.

Forest-officers not to trade.

62. Except with the permission in writing of the Governor in Council, no Forest-officer shall, as principal or agent, trade in timber or forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or Foreign territory.

CHAPTER X.

MISCELLANEOUS.

Additional powers to make rules.

63. The Governor in Council may make rules consistent with this Act—

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer shall be exercised or performed;

(*b*) to regulate the procedure of Forest Settlement-officers;

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act, or from the Public Treasury;

(*d*) for the preservation, reproduction, and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(*e*) generally to carry out the provisions of this Act.

Rules when to have force of law.

64. All rules made by the Governor in Council under this Act shall be published in the *Fort St. George Gazette* and in the official Gazettes of the districts affected thereby, and shall thereupon have the force of law. Such rules may be cancelled or varied by like Notification.

Powers of Government exercisable from time to time.

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

Governor in Council may delegate powers.

65. It shall be lawful for the Governor in Council to delegate any of the powers conferred by sections nineteen, twenty, twenty-two, twenty-seven, fifty-eight and sixty-two, to the Board of Revenue, or to such other controlling Revenue authority as the Government may from time to time appoint.

Recovery of money due to Government.

66. All money, other than fines, payable to the Government under this Act, or any rule made thereunder, or on account of timber or forest-produce, or of expenses incurred in the execution of this Act in respect of timber or forest-produce and all compensation awarded to Government under this Act may, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land-revenue.

Lien on forest-produce for such money.

67. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce; and if such amount be not paid when due, such produce may be taken possession of by or under the authority of the District Forest-officer, and may be retained until such amount has been paid, or such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Powers to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Land required under this Act to deemed to be needed for a public purpose under the Land Acquisition Act.

68. Whenever it appears to the Governor in Council that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

ADDENDA.

Notes.

SEC. 6.—On a reference made under section 39 it was held that the holder of a tree patta is a known occupier of land within the meaning of section 6 of this Act.

SEC. 10.—An appeal lies to the High Court from a decision of a District Court passed under sec. 10 of the Madras Forest Act, 1882, on appeal from the decision of a Forest Settlement Officer.

SEC. 10.—Where by an Act of Legislature powers are given to any person for a public purpose from which an individual may receive injury, if the mode of redressing the injury is pointed out by the statute, the ordinary jurisdiction of Civil Courts is ousted and in the case of injury the party cannot proceed by action. Plaintiff sued in a Munsiff's Court to cancel the decision of a Forest officer confirmed by a District Judge under sec. 10 of the Madras Forest Act, 1882, and to recover certain land, a claim to which had been rejected under the said section :—*Held*, that the Munsiff had no jurisdiction to entertain the suit. *Ramachandra* v. *The Secretary of State for India*.—I. L. R., 12 Madr. 105.

SEC. 33.—The Government having possession of a forest under a mortgagor is jointly interested therein with the mortgagor within the meaning of Madras Forest Act, sec. 33. *Ashtamurthi* v. *Secretary of State for India*. —I. L. R., 13 Madr. 322.

ACT NO. XXI. OF 1882.

PASSED ON THE 22ND NOVEMBER 1882.

An Act to remove Doubts regarding the Madras Forest Act, 1882.

WHEREAS doubts have arisen whether the Madras Forest Act, 1882, is consistent with certain Acts of the Governor-General in Council, and it is expedient to remove those doubts; It is hereby enacted as follows :—

Enactments of the Governor-General in Council not to affect the Madras Forest Act.

1. No enactment of the Governor-General in Council shall affect, or shall be deemed to have at any time contained anything which would affect, the Madras Forest Act, 1882.

MADRAS LOCAL BOARDS.

M. ACT NO. V. OF 1884.

[*EXTRACTS*]

As amended by Act III of 1890.

Passed on the 2nd July 1884.

Preamble.

WHEREAS it is expedient to make better provision for the organization of Local Boards in the Presidency of Fort St. George; for the construction, repair, and maintenance of roads and communications in local areas therein not included within the limits of any Municipality; for the diffusion of education in such local areas; and for other objects of public utility calculated to promote the health, comfort and convenience of the inhabitants of such local areas; It is hereby enacted as follows :—

* * * * *

Local Boards' servants are public servants.

43. Every member or servant of a Local Board, or of a Punchayat, every contractor or agent, to whom the collection of any tax, toll, fee, or other sum, due to a Local Board or Punchayat, is entrusted, and every person engaged in the collection of such tax, toll, fee or sum, shall be deemed to be a public servant within the meaning of the Indian Penal Code.

* * * * *

Holders of land of other than Ryotwary tenure to furnish lists of their lands to Collector.

65. The Collector may require every holder of land within the district not being an owner of land in the district of Malabar, or a holder of land under Ryotwary tenure, to furnish him with an accurate list of the lands held by him, whether occupied by tenants or by himself, specifying, in each case, the annual rent value of the lands so occupied, exclusive of the water-rate, if any, payable by his tenant direct to Government.*

Collector to assess tax according to list.

66. If the Collector is satisfied with the list furnished by a land-holder in compliance with a requisition made under the last preceding section, he shall assess such landholder, according to such list, for the tax due in respect of lands held by him as aforesaid.

Penalty for failing to furnish such lists.

67. If any landholder shall neglect to comply with a requisiton made under Section 65, within six months after requisition made in the District Gazette or otherwise, such landholder shall be liable to a fine not exceeding rupees fifty for each

* See Madras Act III. of 1890, sections 1 and 2.

day's delay, until the list be furnished or until the annual rent value of such landholder's lands shall have been fixed by the Collector as provided in the next following section. The amount of such fine shall be fixed by the Collector of the District and shall be recoverable as an arrear of tax.

* * * * *

Police to assist toll-collectors.

91. In all cases of resistance to the lawful authority of the toll-collectors, appointed under this Act, all police officers shall assists the toll-collectors, when required, and for that purpose shall have the same power which they have in the exercise of their ordinary police duties.

Penalty for evading tolls.

92. If any person shall, with any carriage, cart or animal, go off or pass from any road on which a toll-bar, gate or gate-keeper's station has been constructed under the provisions of Section 89 through or over any land adjoining thereto, such land not being owned or occupied by such person and not being a public road, with intent to evade the payment of any toll leviable under the provisions hereinbefore contained, such person shall be liable to a fine not exceeding Rs. 50 and shall also pay the amount of the toll and costs of prosecution.

* * * * *

Governor in Council may declare vaccination compulsory.

106. (1) The Governor in Council may, by notification, declare that vaccination shall be compulsory in any district from a date to be specified in such notification, and may from time to time, in like manner, cancel or modify such declaration.

District Board to proclaim that vaccination is compulsory.

(2) On the publication of the said notification, the District Board shall cause to be proclaimed by beat of drum and by publication in the District Gazette, that vaccination is compulsory in the district.

Unprotected child to be vaccinated.

107. The parent and guardian of any unprotected child who is more than six months old but is under ten years of age, and who has resided within the limits of such district for a period of six months after such proclamation, shall take or cause it to be taken to a vaccinator or shall procure its vaccination by a vaccinator.

Provided that no parent or guardian shall be bound to take or cause to be taken any child in order to procure its vaccination or inspection beyond the limits of the village in which such parent or guardian resides.

Vaccinator to deliver certificate of postponement.

108. (1) Such vaccinator shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate to the effect that the child is in a state unfit for vaccination.

(2) A certificate granted under this section showing the unfitness of a child for vaccination shall remain in force for such period not exceeding three months as shall have been stated therein; and on the termination of that period the parent or guardian of such child shall, subject to the proviso contained in the last preceding section, take the child, or cause it to be taken to such vaccinator as aforesaid to be vaccinated, or procure its vaccination at his own house by such vaccinator, and shall subsequently cause it to be inspected in the manner hereinafter provided.

Procedure when child is unfit for vaccination, Renewal of postponement certificate.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate shall be renewed.

109. Such vaccinator shall, if he finds the child to be in a state fit for vaccination, vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation.

Vaccinator to vaccinate child.

110. (1) The parent or guardian of every child which has been vaccinated under the last preceding section shall, subject to the proviso contained in Section 107, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to such vaccinator for inspection, or shall procure its inspection by such vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Inspection after vaccination.

(2) When it is ascertained, at the time of inspection under this section, that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect; and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

(3) When it is ascertained that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated, and shall subsequently cause it to be inspected in the manner provided in Sub-section (1) of this section.

Procedure when vaccination is unsuccessful.

(4) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificate of insusceptibility.

Private vaccinator.

111. No private vaccinator shall be bound to vaccinate any child or make any inspection under Sections, 107, 108, 109, and 110, but if such vaccinator perform the operation of vaccination or make any inspection under the aforesaid sections, such vaccinator shall grant the certificates mentioned in the said sections.

Notice to parent or guardian of unprotected child, &c.

112. (1) The President of the District Board, or some person or persons authorized by him in that behalf, shall ascertain whether all the children under the age of ten years within the district have been vaccinated or are unprotected; and if the President of the District Board or any person authorized by him has reason to believe that the parent or guardian of any unprotected child is bound by the provisions hereinbefore contained to procure the vaccination of such child or present it for inspection and has omitted so to do, he shall go to the house of such parent or guardian and there make enquiry, and shall, if the fact is proved to his satisfaction, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection at a time and place to be specified in the notice.

If notice is disobeyed, Magistrate to direct obedience.

(2) If such notice is not complied with, the President of the District Board or such person shall send a report on the matter to the Magistrate, who shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Person disobeying order liable to penalty.

(3) If on such date the order, passed as aforesaid, has not been obeyed, the Magistrate shall summon the parent or guardian before him, and shall, if no just cause or excuse is shown for such disobedience, sentence such parent or guardian to a fine not exceeding Rs. 50: and such parent or guardian shall be liable to a further fine not exceeding Rs. 10 for every day during which the order under this section may not be obeyed by him.

Provision as to person who does not appear in public.

113. Notwithstanding anything hereinbefore contained, if any unprotected child or the parent or guardian of such child is a female who, according to the customs of the country, does not appear in public, the President of the District Board, or any person authorized by him in that behalf, shall direct a vaccinator to visit the house of such parent or guardian and there to deal with the child in accordance with Sections 107, 108, 109 and 110.

114. Whoever, after the publication of the notification mentioned in Section 106 not being a vaccinator under this Act, wilfully signs or makes a certificate purporting to be a certificate granted under this Act shall be liable to a fine not exceeding Rs. 500.

Penalty for signing a certificate by unlicensed vaccinator.

115. Whoever, being vaccinator wilfully signs, or makes, or procures the signing or making of a false certificate, or being bound to grant a certificate under this Act, refuses or neglects to grant the same, shall be liable to a fine not exceeding Rs. 100.

Penalty for signing a false certificate.

116. In every District in which this Act shall have come into force inoculation is prohibited.

Prohibition of inoculation.

Whoever contravenes the provisions of this section shall be liable to a fine not exceeding Rs. 50.

* * * * *

158. (1) If any member, or servant of a Local Board, or of a Punchayat, is, otherwise than with the permission in writing of the Collector of the District, directly or indirectly interested in any contract made with such Board, he shall be deemed to have committed an offence under Section 168 of the Indian Penal Code.

Penalty on member or servant being interested in contracts made with Board.

(2) No person shall by reason of being a shareholder in, or a member of, any incorporated or registered Company be held to be interested in any contract entered into between such company and a Local Board.

165. Whoever—

(i) not being a person appointed or duly authorized to collect any tax, toll, fee or other sum payable under this Act shall levy or demand any such tax, toll, fee, or other sum, or

Illegal collection of taxes or tolls.

(ii) shall unlawfully demand or take any other or higher tax, toll, fee, or other sum than the lawful tax, toll, fee, or other sum, or

(iii) under colour of this Act, shall seize or sell any property knowing such seizure and sale to be unlawful, or

(iv) being entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or

(v) shall in any manner unlawfully extort money or any valuable thing from any person under colour of this Act,

shall be deemed to have committed the offence of cheating or extortion as the case may be, within the meaning of the Indian Penal Code.

166. (1) Whenever any fine imposed under or by virtue of this Act shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be detained in custody, or compelled to give security, if fine, &c., be not forthwith paid.

(2) If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the admission of the offender, or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender to prison, there to be simply imprisoned, according to the discretion of the Magistrate, for any term not exceeding one calendar month when the amount of fine shall not exceed fifty rupees, and for any term not exceeding two calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

If no sufficient distress can be had, the offender may be imprisoned.

(3) Every prosecution under this Act may be instituted before any Magistrate who has jurisdiction over the offender.

Prosecutions under this Act.

MADRAS TOBACCO DUTIES.

M. ACT NO. I. OF 1890.

[*EXTRACTS.*]

An Act to make provision for the levy of Duties on Tobacco brought into the City of Madras.

Preamble.

WHEREAS it is expedient to make further provision for the maintenance, repairs, extension, improvement and other incidental expenses of water-works heretofore provided or hereafter to be provided for the City of Madras, and for payment of interest on, and for liquidation of, any loan heretofore contracted for the construction, extension and improvement of such works, or which may be hereafter specially contracted for such purposes, it is enacted as follows :—

Short title.

1. This Act may be called the City of Madras Tobacco Duties Act.

It shall extend to the City of Madras.

Words to have same meaning as in Madras Act I of 1884.

2. Any word or expression used herein which has been defined in Madras Act I of 1884 shall be taken to have the meaning assigned to it in that Act.

Power to impose duty on tobacco brought into the City.

3. With the previous sanction of the Governor of Fort St. George in Council, the Municipal Commissioners for the City of Madras may impose a duty at a rate not exceeding one anna and six pies per pound (avoirdupois) on all or any kind or kinds of tobacco brought into the City, and may with like sanction from time to time vary any such rate.

Proviso.

Provided that tobacco intended for personal use, and not for sale, and in quantity not exceeding two pounds (avoirdupois), shall be exempt from such duty.

Penalty.

4. Whoever, without payment of the duty imposed under section 3, brings or causes to be brought, within the City, any tobacco liable to such duty, shall be punishable on conviction before a Magistrate with fine not exceeding five hundred rupees ; and such tobacco shall be liable to confiscation by order of the Magistrate.

Recovery of fines.

Every fine imposed under this Act may be recovered in the same manner as fines under the City of Madras Municipal Act I of 1884.

Notes.

The duties shall be collected by or under the authority of the President who may appoint subordinate officers for the purpose, or, with the sanction of the Commissioners and of the Governor in Council, may authorize any officer of Government, Railway Company, or other person, to exercise all or any of his powers under this section. Persons exercising authority under this section shall have power to search any person, vehicle or package entering or being brought into the City, for the discovery of tobacco liable to duty under this Act.—See sec. 6.

All provisions of Madras Act I of 1884 or other Act for the time being in force relating to the municipal administration of the City of Madras which apply to the collection of taxes, tolls and fees, to persons employed by the Municipal Commissioners, and to offences against that Act, shall apply, so far as may be, to the collection of the duties imposed under this Act, to persons exercising authority under section 6, and to offences under this Act.—See sec. 7.

LANDING AND SHIPPING FEES.

M. ACT NO. III. OF 1885.

Passed on the 15th May, 1885.

An Act to make provision for the levying of landing and shipping fees within the outports of the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to make rules and regulations for the levying of landing and shipping fees within the outports of the Presidency of Fort St. George, it is enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Madras Outports Landing and Shipping Fees Act, 1885. It shall come into force in any port within the Presidency of Fort St. George from such date as the Governor in Council may by notification in the *Fort St. George Gazette* direct.

Repeal of Act III of 1883.

2. Act No. III of 1883 (The Cocanada Port Dues Act, 1883,) shall be repealed on and from the date on which this Act is brought into force in the port of Cocanada, save so far as relates to offences committed, acts done and penalties incurred before this Act came into force.

Interpretation clause.

3. In this Act unless there shall be something repugnant in the subject or context—

"Port."

(1) "Port" means the space within such limits as may from time to time be defined by the Government for the purposes of this Act by notification in the *Fort St. George Gazette*, and until a notification is so issued within such limits as may have been defined by the Government under the provisions of Act XII of 1875 (Indian Ports Act).*

"Vessel."

(2) "Vessel" denotes anything made for the conveyance by water of human beings or property.

"Owner."

(3) "Owner" when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, landing or shipping of such goods.

"Goods."

(4) The word "goods" includes wares and merchandise of every description.

* See Act X of 1889 which repeals this Act.

PART II.

OF THE PAYMENT OF LANDING AND SHIPPING FEES.

Levy of landing and shipping fees.

4. Landing and shipping fees, according to the rates which may be fixed from time to time, shall be levied upon all goods, carts, carriages, animals, baggage, and other articles landed from or shipped into any vessel lying or being within the limits of any port within the Presidency of Fort St. George to which this Act may be applied. Such fees shall be payable in addition to all tolls and charges now lawfully levied within such port.

Provided that no rates shall be fixed under the provisions of this Act without the previous sanction of the Governor-General in Council.

Rates of fees to be notified.

5. Such rate shall be notified in the *Fort St. George Gazette* at least one month before the date from which the same shall become payable, and shall be legibly painted in the English, Tamil, Telugu, and Hindustani languages on boards exhibited at the places appointed under Section 6.

Rules.

6. The Government may from time to time make rules—

(*a*) appointing places where goods intended for shipment or landed from ships within the port are to be placed for the purpose of assessing the fees payable under this Act.

(*b*) regulating the manner in which such fees shall be assessed and the time when they shall be paid.

Such rules and any alteration or cancellation thereof shall be published in the *Fort St. George Gazette*, and shall thereupon have the force of law.

Appointment of officer to levy and receive landing and shipping fees.

7. The Governor in Council shall appoint an officer of Government to levy and receive all fees payable under this Act, and to pay the same into such treasury, and keep such accounts as the Government may from time to time prescribe. The officer so appointed may, with the sanction of the Government, appoint such persons as he shall think fit to assist him in carrying out the provisions of this Act, all of whom shall wear a distinguishing badge of a kind to be prescribed by such officer.

Detention of goods until payment of fees.

8. It shall be lawful for the officer of Government appointed under this Act or any of his assistants to detain any such goods until the lawful fees are paid ; it shall be the duty of such officer to give notice in writing to the owner or consignee if known stating the amount of fees and charges payable in respect of such goods, and in the event of such payment being refused or delayed for the space of fourteen days from the date of such notice, if the owner or consignee of such goods shall be in the port concerned, or otherwise for the space of one calendar month from the date on which such fees are payable, it shall be lawful for such officer

of Government to sell or cause to be sold by public auction the said goods, and after paying the expenses of such detention and sale and double the amount of the fees by way of a fine, to pay the surplus, if any, of the proceeds of the sale to the owner or consignee or other person entitled thereto, if claimed within six months from the date of sale.

Proviso.

Provided that, if the goods are of a perishable nature, the said officer of Government may sell the same or cause them to be sold at such earlier period being not less than 24 hours after the landing of the goods as he shall think fit.

PART III.

PENALTIES.

Removal of goods.

9. Whoever removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any goods, with the intention of evading payment of any fees payable under this Act, and whoever wilfully infringes or acts in contravention of any rule made under section 6, shall on conviction before a Magistrate be punishable with fine, which may extend to one hundred rupees, or in default of payment to simple or rigorous imprisonment as defined in the Indian Penal Code for a term which may extend to two months.

HARBOUR OF MADRAS.

M. ACT NO. II. OF 1886.

As amended by Acts III of 1886 *and II of* 1892.

PASSED ON THE 20TH FEBRUARY, 1886.

An Act to provide trustees for the Harbour of Madras.

WHEREAS it is expedient to make provision for the regulation, conservancy, and improvement of the Harbour of Madras, it is enacted as follows :—

Preamble.

1.—PRELIMINARY.

Short title.

1. This Act may be called the Madras Harbour Trust Act, 1885.

Commencement.

2. The first and second parts of the Act shall come into operation on such date as the Governor in Council may, by notification in the *Fort St. George Gazette*, direct; and the remainder of the Act shall come into operation on such later date as the Governor in Council may, by a second notification, direct.

Note.

Parts I & II were brought into force on 1st May 1886 and the remainder on 1st June 1886.—Vide notifications Nos. 6 and 12, dated 27th April and 1st June respectively, of 1886.

Interpretation section.

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

"Rates."

(1) The word "rates" includes any toll, due, rent, rate or charge leviable under this Act;

"Port."

(2) "Port" means the Port of Madras within such limits as may from time to time be defined by the Governor in Council for the purpose of this Act by notification in the *Fort St. George Gazette*, and until a notification is so issued, within such limits as may have been defined by the Government under the provisions of Act XII of 1875 (The Indian Ports Act);*

Note.

Marine Notification No. II of 1st June 1886 specifies the limits of the port of Madras.

"Harbour."

(3) "Harbour" means the artificial harbour at Madras consisting of the enclosing groynes and the enclosed space and the corresponding foreshore east of the

* See now Act X of 1889.

beach road and all buildings, structures, or appliances provided by the Governor in Council or the Trust Board for the purposes of the Harbour and of the vessels using it, together with the moorings therein laid down by the Governor in Council or the Trustees;

"Chief Officer of Customs." (4) The "Chief Officer of Customs" denotes the chief executive officer of Sea Customs for the Port of Madras for the time being;

"Vessel." (5) "Vessel" denotes anything made for the conveyance by water of human beings or of property;

"Master." (6) "Master", when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;

"Owner." (7) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods; and when used in relation to any vessel, includes any part-owner, charterer, consignee, or mortgagee in possession thereof;

"Land." (8) "Land" includes the bed of the sea below high watermark.

"Wharf." (9) "Wharf" includes any part of the foreshore that may be used for loading or unloading goods, and any wall enclosing or adjoining the same;

"Dock." (10) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock;

"Pier." (11) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith;

"Goods." (12) The word "goods" means and includes every kind of moveable property.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by Trustees. 4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called "The Trustees of the Harbour of Madras"; and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal and shall sue and be sued by the name first aforesaid.

Constitution of the Board.

5. The Board shall consist of not less than nine nor more than thirteen Members, that is to say, of five elective Trustees, not more than seven nor less than three nominee Trustees, and a Chairman ; and not less than three of the Trustees shall be natives of India residing in the City of Madras.

Elective Trustees to be elected by the Chamber of Commerce and Trade Association,

6. Four of the elective Trustees shall be elected by the Members for the time being of the Madras Chamber of Commerce, and one by the Members for the time being of the Madras Trade Association in such manner as shall from time to time be determined at a meeting of the Members of the said Chamber or Trade Association convened in accordance with the rules at the time in force in this behalf. The Chairman of the said Chamber and the Chairman of the said Trade Association shall each make a return to the Governor in Council of the name of every person so elected by the Chamber and Trade Association, and such return shall be published in the *Fort St. George Gazette*.

or in default of such election shall be nominated by Government.

In the event of default being made by the Chamber or Trade Association in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for the Governor in Council by notification in the *Fort St. George Gazette* to nominate a person, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Chamber or Trade Association as the case may be.

Appointment of nominee Trustees.

7. The Nominee Trustees and the Chairman shall be appointed by the Governor in Council by notification in the *Fort St. George Gazette*.

Term of office.

8. Subject to the provisions hereinafter contained the term of office of the first Chairman and Trustees shall commence on such date as shall be notified by the Governor in Council and the said Chairman and Trustees shall hold office up to, and inclusive of, the 31st of March next succeeding, and every person thereafter appointed or elected to be such Trustee or Chairman shall hold office for the term of two years ; but the Governor in Council may at any time accept the resignation of any such Trustee or Chairman.

Note.

The term of office of the first Chairman and Trustees of the Harbour of Madras commenced on the 1st June 1886—Marine Notification No. 8, 3rd May, 1886.

Election of first Trustees.

9. The first elective Trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8 ; in every other case elective Trustees shall be elected on some day

Trustees to be elected in the month of March.

not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee Trustees shall be appointed on some day in the remainder of the said month of March.

Trustees re-eligible.

10. Any person ceasing to be a Trustee shall, unless disqualified under Section 14, be eligible for reappointment or re-election.

Power to remove Chairman or Trustee.

11. The Governor in Council may, by an order under the hand of one of the Secretaries to Government, direct that any chairman or nominee Trustee named in such order shall cease to be Chairman or Trustee, and the person so named shall cease to be such Chairman or Trustee accordingly.

Appointment of successors.

12. When any casual vacancy in the office of a Chairman or Trustee is occasioned by the death, resignation or disqualification of such Chairman or Trustee, if the office vacated was that of Chairman, or Trustee other than elective Trustee, the Governor in Council shall within one month, by an order published in the *Fort St. George Gazette*, appoint a Chairman or Trustee, as the case may be, in the place of the person so dying or ceasing to be a Chairman or Trustee. Such appointment shall be subject to the provisions of Section 5.

If the office vacated be that of an elective Trustee, the vacancy shall be filled up within one month by the Chamber of Commerce or Trade Association as the case may be in the manner provided in Section 6.

If, exclusive of the person so dying or ceasing to be a Trustee, the number of the Trustees is not less than nine, and the conditions of Section 5 remain fulfilled, it shall be lawful for the Governor in Council not to appoint a Trustee to the place of the person so dying or ceasing to be a Trustee.

Appointment of acting Trustee during absence of Trustee.

13. When any Trustee departs from Madras with the intention of being absent for a longer period than three months, the Governor in Council may appoint some other person to act in the place of such absent Trustee until he returns to Madras, or ceases to be a Trustee. The person so appointed shall be subject to all the restrictions, and be entitled to all the privileges to which the Trustee for whom he is acting was subject or entitled.

Disqualification of Trustees.

Disqualifications for office of Trustee.

14. No person shall be qualified to be a Trustee during such time as he

(*a*) is an uncertificated bankrupt, or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board ;

and any Trustee who

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) refuses to act or becomes incapable of acting,

(*f*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*g*) is sentenced to imprisonment for any offence,

shall cease to be a Trustee, and his office shall thereupon become vacant :

Proviso. Provided always that no Trustee shall vacate his office by reason only of his

(*h*) having a share in any Joint-Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(*i*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*j*) being interested in any loan of money to the Board.

Remuneration and leave of Chairman and Trustees.

Salary of Chairman. **15.** The Governor in Council may from time to time determine what salary and what allowances shall be paid to the Chairman, and may declare any conditions and restrictions upon and under which such salary and allowances, respectively, shall be payable.

Fees to Trustees. Every Trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board or Committee appointed under Section 17, Clause 3, at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof. Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any Trustee for his attendance at all such meetings during that one week.

Leave of absence may be granted to the Chairman. **16.** The Governor in Council may from time to time grant the Chairman such leave of absence as he may deem fit, and any person appointed by the Governor in Council to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Leave and acting allowances to be defrayed out of the General Fund. The salary which the Governor in Council may direct to be paid to the Chairman during his absence on leave, and the salary which may be directed to be paid to the person appointed to act for him, shall be defrayed as provided in Section 33.

Provided that the aggregate amount of the salaries paid to such Chairman and the person appointed to act for him shall not in any case exceed the salary which may under this Act be paid to the permanent holder of the office.

Proceedings of Board.

Provisions concerning the Board's proceedings.

17. The following provisions shall be observed with respect to the proceedings of the Board (viz.) :—

Casual vacancy not to affect Board's Proceedings.

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred ;

(2) The Board shall meet together and shall from time to time make such arrangements not inconsistent with this Act with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they may think fit, subject to the following condition (viz.) :—

Board to meet together and arrange for transaction of business as they think fit, but

there must be a meeting once a fortnight, or

(*a*) that a meeting shall be held once at least in every fortnight ;

whenever necessary upon an emergency, and

(*b*) that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting ;

five trustees shall make a quorum, and

(*c*) that no business shall be transacted at any meeting unless at least five Trustees are present throughout such meeting ;

every meeting must be presided over by the Chairman, and

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent by such one of the Trustees present as may be chosen by the meeting ;

all questions must be decided by a majority of votes, and

(*e*) that all questions shall be decided by a majority of votes of the Trustees present, the President having a second or casting vote in all cases of equality of votes ;

poll may be demanded.

(*f*) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the President of the meeting ;

Minutes of proceedings must be kept, and

(*g*) that minutes shall be kept by the Secretary of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose which shall be signed, as soon as practicable, by the President of such meeting, and shall be open to inspection by any Trustee during office hours.

adjournment of meetings.

(*h*) The President may, with the consent of any meeting, adjourn it.

Copy of minutes to be sent to Government, and any returns called for by Government to be furnished.

Publication in Gazette.

(*i*) A copy of the minutes of every meeting of the Board shall, as soon as conveniently may be, be transmitted to such Secretary of the Local Government as shall from time to time be appointed to receive the same, and shall be published in the *Fort St. George Gazette*; any other returns or information which the Governor in Council, from time to time, calls for shall be forthwith supplied by the Chairman:

Board may appoint Committees.

(3) The Board may, from time to time, appoint Committees consisting of not less than five of their number for carrying into effect any part of the provisions of this Act, with such powers and under such instructions, directions, or limitations as shall be defined by the Board. Three members of any such Committee shall be a quorum; and the Board shall have power at any time to alter the constitution of or discontinue any such committee.

Committee's meeting to be presided over by a chairman.

(4) A Committee may elect a Chairman of their meetings, and if no such Chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meetings.

Committees when to meet.

(5) Committees may meet and adjourn at their discretion, but the Chairman of the Board may whenever he thinks fit and shall, upon the written request of not less than two members of a Committee, call a special meeting of such committee.

Questions how to be decided at committee's meetings.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least three of the members of the Committee are present from the beginning to the end thereof.

Proceedings not to be invalidated by a vacancy or informality of appointment.

18. No act or proceeding of the Board or of a Committee shall be invalid in consequence only of their being a vacancy in the number of the Trustees at the time when such act or proceeding was had or done, or by reason only of there being some defect in the appointment of such Board, Committee or Trustee, or on the ground that they or any of them were disqualified for the office of Trustee; and all proceedings of the Trustee, or of any person acting as a Trustee shall be as valid as if such person had been duly appointed to be a Trustee.

19. The Board may, by resolution in writing, with the sanction of the Governor in Council, prescribe which of the powers, and duties by this Act conferred or imposed upon the Board, may be exercised and performed by the Chairman.

Board may delegate powers to Chairman.

The Board may, from time to time, with the like sanction, alter or cancel any such resolution.

Duties of Chairman.

20. The Chairman shall

(1) attend every meeting of the Board unless prevented by sickness, or other reasonable cause;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board;

(3) subject to the regulations made under section 22, and to the schedule for the time being in force framed by the Board under section 21, dispose of all questions relating to the service of the officers and servants of the Board, and their pay, privileges, and allowances.

III.—Of the Officers and Servants of the Board.

Schedule of other officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

21. The Board shall, from time to time, prepare and sanction a Schedule of the staff of officers and of servants whom the Board shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Board sanctions for each such officer or servant.

Proviso.

Provided that artisans, porters and labourers, and the supplier of porters and labourers, shall not be deemed to be officers or servants within the meaning of this Section or of Sections 22 and 23.

Board to frame regulations,

22. The Board shall, from time to time, frame regulations—

for regulating leave,

(1) for regulating the grant of leave to the officers (other than the Chairman) and servants of the Board;

for settling absentee allowances,

(2) for authorizing the payment of allowances to the said officers and servants, or to any of them, whilst absent on leave;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

for fixing acting allowances.

for regulating length of service.

(4) for regulating the period of service of all such officers and servants;

(5) for determining the conditions under which such officers and servants or any of them shall be entitled, on retirement, to pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

for fixing pensions, &c.,

for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund, which may, with their approval, be established by the officers and servants appointed under this Act.

for authorizing contributions to Provident Fund.

All pensions, contributions, and allowances mentioned in this section shall be chargeable to the General Fund of the Board.

Provided that the regulations for the grant of pensions, gratuities and compassionate allowances, referred to in Clause 5 of this section, shall be subject to the approval of the Governor in Council.

Proviso.

23. Subject to the provisions of the said regulations framed under Section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman, in the case of officers and servants, whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

Appointments, &c., by whom made.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections, shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of the Governor in Council.

Sanction of Government when necessary.

IV.—Of the Property and Liabilities of the Board.

25. On the issuing of the second Notification mentioned in Section 2 of this Act there shall vest in the Board the several properties specified in Schedule A to this Act annexed, anything in the Madras Municipal Act I of 1884 to the contrary notwithstanding, also the sums standing at the credit of the Harbour dues after deducting interest on sums already expended.

Property vested in the Board.

26. The Board may, with the sanction of the Governor in Council, acquire and hold moveable or immoveable property within the limits of the port or town

Power to hold and acquire property.

of Madras, either by purchase, or on lease, or otherwise; and they may lease, sell or otherwise alienate any moveable or immoveable property, vested in or acquired by them. No such sale, lease or alienation of any immoveable property shall be valid without the sanction of the Governor in Council.

Procedure to be observed when Board are unable to acquire, by agreement, any immoveable property.

27. When the Board are unable to acquire, by private contract, any immoveable property required for the purposes of this Act, the Governor in Council may, in his discretion, declare that such property is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same according to the law for the time being in force for the acquisition of land for public purposes.

Compensation to be paid by the Board.

Such property, when so acquired, shall, on their paying the compensation awarded and all costs connected with its acquirement be deemed to be vested in the Board.

Payment to Municipality in lieu of rates.

28. Notwithstanding anything in Madras Act I of 1884 or other law for the time being in force the property vested by this Act in the Board shall be exempted from assessment of any rate or tax under the said Act or any other such law.

Amount of debt.

29. On the issuing of the second Notification mentioned in section 2 there shall be deemed and taken to be due from the Board to the Secretary of State for India in Council, the several sums set forth in Schedule B to this Act annexed.

Note—See note under sec. 2.

Payment of interest.

30. On the said sums set forth in Schedule B and on any other sums which may from time to time be advanced by the Secretary of State to the Board, or on such part thereof as may for the time being be owing by the Board to the secretary of State, interest shall be paid by the Board to the Secretary of State annually on the first of April at the rate of $4\frac{1}{2}$ per cent. per annum, such interest to be calculated from the date on which the said sums or any part of them have been or may be advanced.

Repayment of principal sums due.

31. The said sums specified in Schedule B shall be repaid by the Board to the said Secretary of State by annual instalments of one lakh of rupees, the first of such instalments to be paid on the first day of April next after the coming into operation of this Act, and every other sum which may become due from the Board to the said Secretary of State shall be payable by the Board to the Secretary of State on such dates and in such in-

stalments as shall be agreed upon between the Governor in Council and the Board. Provided that no sum larger than one lakh of rupees per annum shall be at any time so repayable by the said Board to the said Secretary of State.

Power to repay before due date.

32. Notwithstanding the provisions of the last preceding section, it shall be lawful for the Board, if they think fit, out of any monies which may come into their hands, under the provisions of this Act, to repay to the said Secretary of State in Council any sum which, for the time being, may remain due to him under the provisions of this Act as principal. Provided that no such repayment shall be made of any sum less than ten thousand rupees, and from and after any such repayment, no further sum as interest shall be payable to the said Secretary of state in Council in respect of the sum which shall have been so repaid.

Income of the property how to be employed.

33. Subject to any specific appropriation by the legislature, the rents, income, and other proceeds of any property vested in the Board under this Act and acquired by them thereunder, and all monies acquired by the Board under or by virtue of this Act shall be applied by the Board as follows :—

(1) the payment of officers and servants employed by the Board under this Act ;

(2) the remuneration of the Chairman and the Trustees ;

(3) the execution and maintenance of works undertaken ;

(4) the payment of any interest which is from time to time owing by the Board ;

(5) the repayment by instalment of monies from time to time owing by the Board ;

(6) and generally for the purposes of this Act.

V.—OF THE BORROWING POWERS OF THE BOARD.

Governor in Council may advance money to the Board.

34. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor-General of India in Council, from time to time advance money to the Board for the general purposes of this Act ; or

With consent of Government the Board may raise loan.

The Board may, with the previous consent of the Governor-General in Council, from time to time raise money for the said purposes or for the purpose of repaying either in whole or in part, any monies heretofore or hereafter borrowed, or owing, by the Board.

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of the Governor in Council.

Manner of raising such loans to be determined by Government.

35. Whenever the consent of the Governor-General in Council has been obtained to the raising of money by the Board under the last preceding section, the Governor in Council shall, with the previous consent of the Governor-General in Council, direct and appoint the manner in which such money shall be raised.

Forms of debentures.

36. When money is raised by the Board on debentures, the debentures shall be in the form of Schedule C, or in such other form as the Board, with the previous consent of the Governor in Council, shall from time to time determine.

The holder of any debenture in the Form of Schedule C, or in any form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form so authorized.

Transfer of debentures.

Every debenture issued by the Board shall be transferable—

(*a*) if it is in the form of Schedule C, by endorsement, and

(*b*) if it is in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the monies secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

VI.—OF REVENUE AND EXPENDITURE.

Chairman to submit annual estimate of income and expenditure.

37. The Chairman shall, at a special meeting to be held within two months after the date on which Trustees have been appointed and elected under this Act, lay before the Board a separate estimate of the expenditure and of the income of the Board for the period from such date up to the 1st day of April then next ensuing ; and shall, at a special meeting to be held in the month of February in each succeeding year, lay before the Board a like estimate of such income and expenditure for the twelve months commencing on the 1st day of April then next ensuing. Every such estimate shall be in such form as the Governor in Council shall, by an order published in the *Fort St. George Gazette*, direct.

38. Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Trustee not less than ten clear days at least prior to the day appointed for the meeting before which the estimate is to be laid.

Copy of estimate to be sent to each Trustee.

39. It shall be in the discretion of the Board, at such meeting, to pass or to reject or to modify or alter such estimate, and to pass such estimate so modified or altered.

Revision and passing of estimates.

40. Every such estimate, when so passed by the Board, shall be submitted to the Governor in Council; and the Governor in Council may either approve such estimate, or may return the same with remarks thereupon; and the Board shall forthwith proceed to reconsider such estimate in reference to such remarks, and, if necessary, to modify or alter the same and re-submit such estimate to the Governor in Council.

Estimate to be approved by Government.

The Board shall not expend on any item any greater sum than shall have been allotted for such item in the estimate and approved by the Governor in Council.

41. The Board may, in the course of any year for which an estimate has been approved by the Governor in Council, cause one or more supplemental estimates for the residue of such year to be prepared and laid before themselves: and there upon such proceedings shall be had as by Sections 38, 39 and 40 are directed to be had with respect to the estimate therein mentioned. Every such supplemental estimate shall be considered and sanctioned by the Board and submitted to the Governor in Council in the same manner as if it were an original annual estimate.

Power to make supplemental estimates.

42. The Board shall not, save in cases of pressing emergency, expend any sum for any purpose not approved in some estimate for the time being in force; nor shall they expend for any purpose not so approved any sum exceeding two thousand rupees without the assent of the Governor in Council.

Expenditure to be made in pursuance of estimate.

43. The accounts of the receipts and expenditure of the Board shall, once in every year, be laid before the Governor in Council, and shall be audited and examined by such auditors as shall, from time to time, be appointed by the Governor in Council. For the purposes of any such audit and examination of accounts, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other docu-

Accounts to be audited and examined.

Auditors to have power to call for books, &c.

ments and papers which they deem necessary ; and may require any person holding or accountable for any such books, deeds, contracts, vouchers, documents, or papers to appear before them at any such audit and examination or adjournment thereof, and to answer all questions which may be put to him with respect to the same, or to prepare and submit any further statement which such auditors may consider necessary in exaplanation thereof.

Auditor's remuneration.

44. The auditors shall be paid by the Board such remuneration as the Governor in Council shall determine.

Audit report to be published.

Within fourteen days after the audit and examination has been completed, the auditors shall report upon the accounts audited and examined, and shall deliver such report to the Board, and the Board shall cause the same to be deposited in their office and to be published in the *Fort St. George Gazette* and in some one or more of the daily newspapers published in Madras.

Levy of rates.

45. The Board shall frame a scale of rates to be levied for each or any of the following matters, viz:—

(*a*) for the landing, shipping, wharfage, cranage, storage, or demurrage of goods at, and for the porterage of goods on, from, or within,*

(*b*) for permission for vessels or boats to approach or lie alongside,

(*c*) and for animals or vehicles carrying goods and merchandise to or from or entering upon or plying for hire at or on

any wharf, pier or dock in the possession or occupation of the Board, and may frame a scale of rates for the landing of goods at any place within the limits of the port whether within or without the Harbour. Any such scale of rates shall be submitted to the Governor in Council for sanction and after receiving such sanction shall be published in the *Fort St. George Gazette*; and such rates shall thereupon be leviable by the Board. The said scale may, from time to time, subject to the like sanction and publication, be altered, diminished, or increased, by the Board.

Sanction of the Governor in Council.

Scale framed under Section 3 of Act VI of 1882 to continue in force until altered.

Until a scale of rates is framed, sanctioned and published under this section, the scale in force when this Act comes into operation under Section 3 of the Madras Harbour Dues Act, 1882, shall be deemed to have been duly framed, sanctioned and published under this section.

* See Madras Act I of 1892, sec. 2.

Power to increase rates to provide for estimated deficiency of Revenue.

46. If, on the preparation of the estimate of any year, it appears that the estimated income of the Board for such year, after deducting therefrom the estimated expenditure of such year, will be insufficient for the payment of the interest which may be payable by the Board during such year to the Secretary of State for India or to any other creditor, and of the instalments which may be payable under Section 31 ;

or if, at any time in the course of a year, it appears that the income of such portion of the year as has then elapsed, and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be insufficient ;

the Board may, and upon the requisition of the Governor in Council, shall,

increase the rates, for the time being in force, to such extent as will render the income of the year sufficient, as nearly as may be, for the payment of the said interest and instalments in full.

Such additional rates shall be fixed by the Board, and shall be submitted to the Governor in Council, and, if approved by the Governor in Council, shall be published in the *Fort St. George Gazette*, and shall become leviable after the expiration of three months from the date of such publication, and continue leviable until altered by the Board with the sanction of the Governor in Council.

On Board making default, Government to impose rates, &c.

47. If the Board shall, for fifteen days after the receipt by them of any such requisition from the Governor in Council, neglect or refuse so to increase such rates, the Governor in Council may, by notification in the *Fort St. George Gazette*, increase such rates as he thinks fit ; and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned, and published under Section 45.

VII.—Of the Powers and Functions of the Board.

Lien for rates.

48. For the amount of the rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and may seize and detain the same until such rates are fully paid.

Rates, &c., on goods when payable.

49. Rates in respect of goods to be landed shall be payable immediately on the landing of the goods ; in respect of goods to be removed from the premises

of the Board, or to be shipped for export, shall be payable before the goods are removed or shipped.

Priority of lien of Board over all other liens.

50. The lien for such rates shall have priority over all other liens and claims, except for general average and for the ship-owner's lien for freight upon the said goods, where such lien exists and has been preserved in the manner provided in Section 52, and for primage, and for money payable to Her Majesty or the Secretary of State in Council under any law for the time being in force.

Saving of power of Chief Officer of Customs under existing law.

51. Nothing in this Act shall affect any power vested in the Chief Officer of Customs under any law for the time being in force.

Lien for freight preserved after landing goods if notice of lien be given.

52. If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any wharf, quay, stage, jetty or pier in the occupation of the Board, gives to the Board notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to such lien to such amount.

Retention of such goods until lien is discharged.

53. Such goods shall be retained in the warehouses and sheds of the Board, or with the consent of the Chief Officer of Customs in the public Customs Warehouses, at the risk and expense of the owners of the said goods until such lien is discharged as hereinafter mentioned; and godown rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

Discharge of ship-owners' lien for freight.

54. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien: provided they shall have used reasonable care in respect to the authenticity of such document.

If rates are not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months.

55. If the rates payable to the Board in respect of any goods are not paid, or if the lien of ship-owner for freight or other charges when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods), as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Fort St. George Gazette*, unless the goods are of so perishable a nature as, in the opinion of the Board, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

Notice of sale.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Notice to owner.

Application of sale-proceeds.

56. The proceeds of every such sale shall be applied as follows :—

(*a*) in payment of the expenses of the sale ;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in Section 50 from the priority of the lien of the Board ;

(*c*) in payment of the rates of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same : provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made ; and, in case such application shall not be so made or reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

57. If the master of any vessel in respect of which any rates, charges or penalties or payable under this Act, or under any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board may apply to the Chief Officer of Customs of the port, and such officer shall distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board is paid ;

Recovery of rates and charges by distraint of vessel.

and, in case any part of the said rates, charges or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has been so made, the Chief Officer of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such rates, charges or penalties and costs, including the costs of sale

remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till rates are paid.

58. If the Board give to the officer of Government whose duty it is to grant the port clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act, or under any bye-laws or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Board not to lease rates without sanction of Government.

59. The Board shall not lease, farm, sell or alienate any power vested in them under this Act of levying rates, without the assent of the Governor in Council.

Power to execute works.

60. The Board may execute such works as they determine to be necessary or expedient for the purposes of the said harbour.

General nature of works under this Act.

61. Such works may include—

(1) wharves, quays, docks, stages, jetties and piers within the harbour or on the foreshore of the harbour, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches;

(2) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped or otherwise;

(3) laying down moorings for carrying out the purposes of this Act, and the erection of cranes, scales, and all other necessary means and appliances for loading and unloading vessels;

(4) reclaiming, excavating, enclosing and raising any part of the foreshore of the harbour which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act;

(5) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the harbour or foreshore;

(6) the construction of such breakwaters and other works without the limits of the harbour as shall be expedient for the protection of the said harbour and all such other works and appliances as may be, in the opinion of the Board, expedient for carrying out the purposes of this Act.

Power to employ tugs.

62. The Board may procure such steam vessels as they think fit, and may employ the same or any of them in towing vessels into, out of, or in the port: and may make such charges for such towage as they think fit.

Power to enter into contracts.

63. The Board may enter into contracts for carrying into effect the purposes of this Act.

Contracts above Rs. 50,000 not valid without sanction of Government.

But no such contract, whereof the value or amount exceeds fifty thousand rupees, shall be valid without the assent of the Governor in Council.

Works to be sanctioned by Government.

64. No new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work until a plan and estimate of such work has been submitted to, and approved by the Board; and, in case the estimated cost of any such new work shall exceed twenty-five thousand rupees, it shall not be commenced until such plan and estimate have been sanctioned by the Governor in Council.

Mode of executing contracts.

65. The Chairman may, for, and on behalf of, the Board, enter into any contract whereof the value or amount shall not exceed one thousand rupees, in like manner and form as if such contract were on his own behalf; but every other contract by, or on behalf of, the Board, shall be passed by the Board and shall be in writing and signed by the Chairman and by two Trustees, and shall be sealed by the common seal of the Board. No contract made otherwise than in compliance with the requirements of this and the last two preceding sections shall be valid.

Power to compound or compromise claims.

66. The Board may compound or compromise any claim or demand arising out of any contract entered into by them, or any action or suit instituted by or against them.

Government may order survey or examination of works.

67. The Governor in Council may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof; the cost of such survey and examination shall be borne and paid by the Board out of the monies in their hands by virtue of this Act.

Government may restore or complete works.

68. If, at any time, the Board allow any work constructed by them or vested in them under this Act to fall into disrepair;

or do not, within a reasonable period, complete any work commenced by them, or included in any estimate sanctioned by the Governor in Council;

or do not, after due notice in writing, proceed to carry out effectually any works or repairs which are necessary in the opinion of the Governor in Council for the purposes of this Act,

the Governor in Council may cause such work to be restored or completed, or such repair to be carried out; and the cost of any such restoration, completion or construction shall be paid by the Board; and if the Board do not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in Act XI of 1879 or any other Act for the time being in force as to the recovery by Government of public loans.

Note.

Act XI of 1879.—This Act is called "The Local authorities Loan Act," and provides for granting loans to any body corporate, municipal committee, &c., and recovering the same from those bodies.

Government may take possession, and revoke powers of Board.

69. If, at any time, it appears to the Governor in Council that the works intended to be executed by the Board under this Act have not been, and are not likely to be, properly carried out or maintained by the Board, the Governor in Council may give six months' notice, by order published in the *Fort St. George Gazette*, that, unless, within that period, the Board take measures, to the satisfaction of the Governor in Council, for the carrying out or maintenance of the said works, the powers by this Act conferred on the Board shall, at the end of such period, be cancelled. If, at the end of such period, the Board have not taken such measures, the Governor in Council may assume possession and management of the works already constructed, and may, by a like Notification, declare the powers of the Board to be cancelled, and upon publication of such Notification, all immoveable and moveable property, all rights of levying and recovering rates and penalties, all benefit of contracts, and all rights of suit which at the time are vested in the Board, shall be transferred to, and vested in, the Secretary of State for India in Council; and the rights of all creditors of the Board under this Act shall continue as against the said Secretary of State in Council to the extent of the property so transferred to and vested in him.

Power to frame bye laws.

70. The Board may, from time to time, make bye-laws—

for the guidance of persons employed by them under this Act;

for the safe and convenient use of the wharves, quays, jetties, sheds, warehouses, tramways, and other works constructed by them or vested in them under this Act,

for the use of the public landing places constructed by or vested in them,

for the reception, removal and porterage of goods brought within the premises of the Board and for the exclusive conduct of these operations by the Board or persons employed by them;*

for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

for the mode of the payment of the rates leviable under this Act;

for regulating, declaring and defining the wharves, quays, jetties, stages, and piers vested in the Board on which goods shall be landed from vessels and shipped on board vessels;

and generally for carrying out the purposes of this Act.

Power to alter or cancel bye-laws.

71. The Board may, from time to time, vary, alter or revoke any such bye-laws.

* See Madras Act I of 1892, sec. 3.

Approval of bye-laws by Government.

72. No such bye-law, or alteration or revocation of a bye-law, shall have effect until the same has been approved by the Governor in Council, and has been published for three weeks successively in the *Fort St. George Gazette.*

Note.

It should be noted that there must be *three* insertions in the Fort St. George Gazette of the bye laws or alterations of the bye-laws and that a single insertion is not sufficient.

Penalties for infringement of bye-laws.

73. The Board may in such bye-laws prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws and scales of rates and charges to be exhibited.

74. The Board shall cause the said bye-laws and the scales of rates leviable by the Board to be printed in the English, Telugu, Tamil, and Hindustani languages, and to be hung up at the several wharves, docks, and piers and other convenient places on the premises of the Board.

Government may annul bye-laws.

75. The Governor in Council may, by an order published in the *Fort St. George Gazette* at any time annul any such bye-law.

VIII.—PENALTIES.

For being interested in contracts with the Board.

76. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of, the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

Provided that nothing in this section shall apply to a person—

(*a*) having a share in any Joint-Stock Company which shall contract with, or be employed by, or on behalf of the Board; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted; or

(*c*) interested in any loan of money to the Board.

Note.

Section 168 of the Indian Penal Code is as follows:—Whoever, being a public servant, and being legally bound, as such public servant, not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

For obtaining illegal gratification.

77. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree-

to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do, any official act, or for showing or forbearing to show, in the exercise of his official functions favour or disfavour to any person; or for rendering or attempting to render any service or disservice to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

Note.

Same punishment &c.—See section 161 of the Indian Penal Code, under which the offender is punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

For refusing or neglecting to appear before an auditor of accounts, &c.

78. Any person who, when duly required so to do by any auditor of accounts under section 43, shall refuse or neglect to appear before such auditor or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to answer any question or prepare and submit any statement shall be punishable for every such neglect or refusal with fine which may extend to one hundred rupees.

For depositing filth, &c., on the wharves or foreshore.

79. Any person who without license of competent authority wilfully deposits, or permits his servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or broken glass, earthernware, or rubbish, in or upon any wharf, dock or pier in the possession of the Board, or in or upon any part of the foreshore of the port, shall be punishable with fine which may extend to ten rupees for each offence.

For setting up any erection below high-water mark in the port.

80. Any person, other than the Board or the Conservator of Port, who shall, without first obtaining the written consent of the Governor in Council to his so doing, make, set up or fix, within harbour limits, any wharf, quay, pier, mooring or other erection whatsoever, shall be punishable with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection, to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring or other erection within harbour limits may be removed by the Board, and the person who made, set up or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

For understanding quantity or weight of goods, &c.

81. If it be found, when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates payable in respect of the said goods or vessel, the owner of

goods shall be liable to pay to the Board such sum not exceeding twice the proper rates on the weight or quantity of goods so understated as may be determined by the Board, and the said sum shall, on the application of the Board, be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For evading tolls, &c.

82. Any person who removes or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any vessel or goods with the intention of evading payment of the rates lawfully due in respect thereof to the Board, shall be punishable with fine which may extend to fifty rupees.

Recovery of value of damage to any property of the Board.

83. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work, in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard; and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the service of the Board, or of the Master Attendant's department.

Cognizance of offences against this Act.

84. Except as is otherwise provided in section 81, all offences against this Act or against any bye-law published under section 72 shall be cognizable by a Presidency Magistrate.

All monies recovered from any offender by way of fine or damages shall be paid to the Board.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

85. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.

Notes.

As to the provisions of the Criminal Procedure Code relating to execution, see Chapter XXVIII of Act X of 1882.

If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.—S. 67, I. P. C.

The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.—S. 68, I. P. C.

If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.—S. 69, I. P. C.

IX.—MISCELLANEOUS.

Provision when day appointed by this Act for any purpose falls on a Sunday or public holiday.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

Limitation of suits, &c.

87. No suit or other proceeding shall be commenced against any person for anything done or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any Act or default of any officer or servant appointed under this Act or of any Master Attendant, any Harbour Master or of any Pilot or of any Deputy or Assistant of any of the officers aforesaid, or of any person acting under the authority or direction of any such officer, Deputy or Assistant ;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board ;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done by them in pursuance of this Act.

Repeal.

88. From and after the issuing of the second Notification mentioned in section 2 of this Act, the Madras Harbour Dues Act VI of 1882 is repealed save so far as it relates to offences committed, acts done and penalties incurred before this Act came into operation.

Note.

See note under sec. 2 as to the issue of the second notification referred to in this section. It was issued on the 1st of June 1886, for the purpose of bringing this Act into force. On 1st June 1886, therefore, the Madras Harbour Dues Act VI of 1882 was repealed.

SCHEDULE A.

(REFERRED TO IN SECTION 25.)

The north and south arms of the Harbour with the area enclosed therein, and all the foreshore lying within the limits of the Port as defined in this Act excepting only that piece of ground situated east of the Beach Road being known as the Custom House iron yard and now in the occupation of the Emigration department, and also the piece of ground situated east of the same road occupied by the office of the Deputy Commissioner of Police.

2. The pier, the jetties constructed and the moorings laid down by Government, and any line of railway constructed by the Government for the purposes of the harbour within the aforesaid limits.

SCHEDULE B.

(REFERRED TO IN SECTION 29.)

SCHEDULE of the SUMS referred to in section 29 calculated according to the estimate of the Total Cost of the Harbour Works from the 1st day of April 1883.

	Estimate Cost of Work.
	Rs.
Machinery, Tools and Plant ... ... Preliminaries and Stores	2,15,917
North Pier	19,98,120
South Pier	17,28,125
Establishment	4,03,434
Lighting Entrance	20,000
Moorings	4,197
Contingencies	2,83,891
Other Charges	957
Total...	46,54,641

SCHEDULE C.

(REFERRED TO IN SECTION 36.)

Form of Debenture.

THE TRUSTEES OF THE HARBOUR OF MADRAS.

No. *The* 188 .

By virtue of the Act No. of 1885 of the Council of the Governor of Madras for making Laws and Regulations, entitled "The Madras Harbour Trust Act, 1885," we, the Trustees of the Harbour of Madras, in consideration of the sum of Rs. paid to us by *A, B.*, of promise to pay to the said , or order, the said sum of Rs. after the date hereof together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of

Given under our Corporate Seal this day of 188 .

(*Signatures of the Chairman and two Trustees.*)
of the Corporation.

[L. S.]

MADRAS SALT ACT.

M. ACT NO. IV. OF 1889.

PASSED ON THE 30TH DECEMBER 1889.

An act to consolidate and amend the law relating to the Salt Revenue in the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Salt Revenue in the Presidency of Fort St. George; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Madras Salt Act, 1889:"

Extent.

It extends to the whole of the Presidency of Fort St. George; Provided that the Governor in Council may, from time to time, by notification exempt any local area from the operation of all or any of the provisions of this Act other than this section and section 2.

Proviso.

Enactments repealed.

2. The enactments specified in the schedule hereunto annexed are repealed to the extent shown in the third column of the said schedule.

Saving of powers.

All licenses granted, orders, rules and appointments made, notifications published, local limits defined, and powers conferred, under any of such enactments, or under any enactments thereby repealed, shall, so far as they are consistent herewith, be deemed to have been respectively granted, made, published, defined and conferred, under this Act.

Interpretation clause.

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

"Salt Revenue."

(*a*) "Salt Revenue" means revenue derived or derivable from any price, duty, fee, tax, fine, confiscation, or payment imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to salt.

"Salt."

(*b*) "Salt" means chloride of sodium, and includes swamp salt, spontaneous salt, and salt or saline solutions made or produced from any saline substance or from salt-earth.

"Saline substance."

(*c*) "Saline substance" means any substance naturally containing salt.

"Salt-earth." (*d*) "Salt-earth" means earth containing salt.

"Saltpetre." (*e*) "Saltpetre" means nitrate of potash, and in any local areas which may be defined in this behalf from time to time by the Governor in Council by notification shall include any or all kinds of carbonates, nitrates, or sulphates of soda and potash specified in such notification.

"Manufacture." (*f*) "Manufacture" includes excavation, collection, removal, preparation, steeping, evaporation, boiling or any one or more of those processes; and also the separation of salt from any saline substance or from saltpetre.

"Circle." (*g*) "Circle" means a local area from time to time constituted as such by the Governor in Council by notification.

"Inspector." (*h*) "Inspector" means an officer in charge of a circle, and includes any officer who may be specially invested by Government with the powers of an Inspector under this Act.

"Salt Factory." (*i*) "Salt Factory" includes any place used or intended to be used for the manufacture of salt or for the storage or keeping of the same pending payment of duty, and all embankments, channels, reservoirs, lands, buildings, and waste places situated within the limits thereof as defined from time to time by the Governor in Council; but does not include a warehouse appointed or licensed under the Sea Customs Act, 1878.

"Salt-work." (*j*) "Salt-work" means any defined area within a salt factory, which is used for the manufacture of salt and which is separately registered as such in the public accounts.

"Contraband Salt." (*k*) "Contraband Salt" means salt, saline substances, salt-earth or saltpetre manufactured without license, or dealt with by any person in contravention of any enactment for the time being in force or of any order, permit or license issued thereunder, or of any Rule made in pursuance thereof.

But it shall not include salt-earth which has been merely excavated or collected, unless such salt-earth is found within the limits of any local area wherein such salt-earth is declared by a notification of the Governor in Council to be contraband salt, nor shall it include sea water.

"Commissioner" (*l*) "Commissioner" means the officer appointed by the Governor in Council under section 4, clause (*a*).

"Licensee." (*m*) "Licensee" means a person to whom a license to manufacture salt or saltpetre is issued, and includes any person registered as the transferee of such license under the provisions hereinafter contained.

"Magistrate." (*n*) "Magistrate" means a Magistrate appointed under the Code of Criminal Procedure.

"Imprisonment." (*o*) "Imprisonment" means inprisonment of either description as defined in the Indian Penal Code.

"Maund." (*p*) "Maund" means a maund of eighty-two and two-sevenths pounds avoirdupois Weight.

"Place." (*q*) "Place" includes a house, building, shop, tent, or vessel.

CHAPTER II.

THE APPOINTMENT OF OFFICERS.

4. Notwithstanding anything contained in Regulations I and II of 1803 the Governor in Council may, from time to time, by notification—

The Governor in Council may appoint an officer to control the administration of the Salt Department;

(*a*) appoint an officer, who shall, either as a Member of the Board of Revenue or subject to the orders of the Board of Revenue or independently of the Board of Revenue, as the Governor in Council may direct, have the control of the administration of the Salt Department and of the collection of the Salt Revenue; and

may withdraw from Board of Revenue or Collectors of Land Revenue their powers in respect of Salt Revenue.

(*b*) withdraw from the Board of Revenue or the Collector of Land Revenue any or all of their or his powers in respect of the Salt Revenue.

Note.

Reg. I of 1803 defines the duties of the Board of Revenue, and Reg. II of 1803 the authority of Collectors.

5. The Governor in Council may from time to time appoint officers of the Salt Department subordinate to the Commissioner, under the designation of Deputy and Assistant Commissioners and Inspectors of Salt Revenue, or under such other designations as may seem fit, and may suspend, reduce, transfer, or dismiss any officer so appointed.

Deputy and Assistant Commissioners and Inspectors.

The Governor in Council may delegate any of his powers under this section to the Commissioner.

6. The appointment of all other subordinate officers of the Salt Department shall, under such orders as the Governor in Council may from time to time prescribe, vest in the Commissioner, who may fine, suspend, reduce, transfer, or dismiss any subordinate officer so appointed.

Subordinate officers.

7. The Commissioner may from time to time, with the sanction of the Governor in Council, by notification, authorise any officer subordinate to him to exercise any of the powers conferred on him by this Act, within such local area, and subject to such limitations as he may think fit.

Delegation of powers by the Commissioner.

CHAPTER III.

OF THE MANUFACTURE OF SALT.

PART I.—*General.*

8. No person, not being a public servant manufacturing on behalf of Government, shall manufacture salt unless duly licensed as hereinafter provided.

Manufacture without license illegal.

9. The Commissioner may grant licenses for the manufacture of salt. Every license shall relate to specified salt works and shall contain such particulars and conditions as the Governor in Council may from time to time prescribe. The Commissioner may at any time call for any license and may amend or alter it or may tender to the licensee a new license in accordance with any further conditions which may be so prescribed.

Commissioner may grant licenses;

may call for and alter them or tender new license.

If such new license is not accepted by the the licensee, the Commissioner may direct that the previous license shall be cancelled.

and if new license refused, may cancel previous license.

Every person who is registered as a manufacturer of salt at any salt factory in existence when this Act comes into force, shall be deemed to be duly licensed to manufacture salt hereunder until a license shall be issued to him.

10. Licenses for the manufacture of salt may be either—

Two descriptions of licenses.

(i) for the manufacture of salt for sale to Government, or

(ii) for the manufacture of Salt for general sale.

11. Licenses shall be transferable and may be relinquished. Provided that no transfer or relinquishment shall have any effect against the Commissioner unless and until it shall have been registered or accepted under such rules as the Governor in Council may from time to time prescribe.

Transfer and relinquishment of licenses.

12. For the purposes of this Act, the licensee shall be taken to be the owner of the license and of the salt works specified therein. Provided that nothing herein contained shall affect the liability of

Licensee to be taken to be owner of license and salt-works.

the licensee towards any person who may have an interest in, or lien upon, such license or salt works.

Power to establish and close factories.

13. The Governor in Council may by Notification establish a salt factory in any land which is the property of Government, or in which the owner thereof shall permit the establishment of a salt factory. Subject to the payment of compensation as hereinafter provided, the Governor in Council may in like manner close any salt factory or portion thereof by directing cancellation of the licenses relating to salt works therein comprised.

Power to substitute either system of manufacture for the other.

14. The Governor in Council may direct that any salt factory or portion of a salt factory worked for sale of salt to Government shall be worked for general sale of salt, and that any factory or portion of a factory worked for general sale of salt, shall be worked for sale of salt to Government.

Proviso.

Provided that no such change shall be introduced during a manufacturing season.

Notice to be given of intention to substitute.

15. The intention of the Governor in Council to effect such change shall be declared by a notification not later than the first day of June in the year preceding that in which the change is to take effect, and notice of such intention shall further be served on the general body of licensees at the factory affected. On or after the first day of December next ensuing and before the commencement of manufacture, the Commissioner shall cause all licensees to be summoned to receive new licenses, and if any of them fail to attend in person or by authorized agent at the time and place mentioned in the summons and to accept the licenses tendered, the Commissioner may declare the existing licenses cancelled.

Power to recall licenses and issue new ones.

Retention of salt works for which licenses have been relinquished or cancelled to be determined by Commissioner.

16. Salt works for which licenses have been relinquished under section 11 or cancelled under sections 9, 13, 15, 25, 27, or 73, shall be at the disposal of the Commissioner, who shall determine whether the salt works shall be retained within the salt factory or not.

Procedure where salt works are retained within the factory.

(*a*) If the Commissioner directs that the salt works shall be retained within the factory, the proprietary right of other persons therein, if any, shall thereupon vest in the Governor in Council and

the Commissioner shall pay the value of such proprietary right to the late licensee. In calculating such value the value of the land as a site for salt manufacture shall not be taken into account. The Commissioner shall, if he admits the existence of such proprietary right, tender to the late licensee such sum as he considers to represent the value thereof, and if the sum tendered is not accepted or such proprietary right is not admitted by the Commissioner, he shall refer the late licensee to a Court of competent jurisdiction. In the case of salt works for which licenses have been cancelled under sections 9, 13, or 15, the Commissioner shall also pay to the late licensee compensation at the rates fixed in section 18.

Procedure where they are not retained.

(*b*) If the Commissioner directs that the salt works shall not be retained within the factory he shall exclude them from the limits thereof, and no payment for the value of any proprietary right shall be made, but in the case of salt works for which licenses have been cancelled under sections 9, 13, or 15, the Commissioner shall pay the late licensees compensation at the rates fixed in section 18.

Proviso.

Provided that no compensation under this section shall be payable, if it is excluded by express stipulation in the conditions of the license.

Treatment of works pending disposal, in the case of dispute, or of suspension of license.

17. Pending the disposal of salt works under section 16, in case of dispute as to succession to a deceased licensee and whenever a license is suspended under this Act the Commissioner may—

grant a temporary license for manufacture in the works in question ; or flood them with water ; or

take any other measure he may think fit to prevent injury to manufacture in neighbouring salt works or the spontaneous generation of salt.

Compensation payable.

18. The compensation payable under section 16 to a licensee shall be at the rate of four annas every maund of salt in the average quantity annually stored from the salt works to which the license cancelledor relin quished relates. In the case of a license to manufacture salt for sale to Government, such average quantity shall be calculated on the number of years in which the salt works have been worked during the five years last preceding. In the case of a license to manufacture salt for general sale, such average quantity shall be calculated on the period not exceeding five years last preceding during which the license has been in force.

19. The Commissioner may without payment authorize the immediate destruction of all salt manufactured by licensees otherwise than according to the conditions of their licenses.

Power to destroy salt.

20. The Commissioner may cause guard-sheds to be erected at any place in any salt factory without payment of compensation for the use of the land occupied thereby.

Power to erect guard-sheds.

PART II.—*Of the Manufacture of salt for sale to Government.*

21. The provisions of this part shall apply only in salt factories or portions of factories worked for sale of salt to Government.

Factories for sale of salt to Government.

22. The Commissioner shall determine the quantity of salt to be manufactured in each year by each licensee.

Power to determine quantity of salt to be manufactured.

The Commissioner shall pay licensees for all salt manufactured according to the conditions of their licenses and delivered into store by them, at such rates as the Governor in Council may from time to time prescribe.

Commissioner to pay for salt manufactured.

23. Licensees shall be bound at their own expense to maintain in repair their salt works and the minor irrigation channels which supply brine thereto, and to deliver all the salt manufactured by them into store at the place and in the manner appointed by the Commissioner for the factory or for the salt works of the licensee. They shall also be bound, when called upon by the Commissioner, to provide labor and materials for securing salt in store and for executing repairs to the platforms, main-channels, roads, and other works of the factory, and shall be paid therefor at the rates usually paid in the neighbourhood for labour and materials of a similar description.

Obligations and duties of licensees.

24. If the licensees fail to agree among themselves as to the proportion in which they shall execute, perform and do the several works, duties and things mentioned in the last preceding section, it shall be lawful for the Commissioner to determine such proportion by order to be affixed in a conspicuous place in the salt factory, and the licensees shall thereupon be bound to execute, perform and do such works, duties and things accordingly within a time to be named in the said order, and if any licensee shall fail so to do, the Commissioner may take such steps as he may think fit for the execution, performance and doing of such works, duties and things, and may recover from such

Power to enforce performance of obligations by licensees.

licensee the amount of any expenditure which the Commissioner may have incurred owing to such refusal or neglect.

Powers of Commissioner in case of want of due diligence or default by licensee.

25. In case of a licensee failing to exercise due diligence in manufacture, or committing any default under section 23 or 24, the Commissioner may—

impose upon the licensee a fine not exceeding one-tenth of the sum payable at the prescribed rates on the quantity of salt determined under section 22 ; or

suspend the license for such period as he may think fit ; or

one month after notice cancel the license.

PART III.—*Of the Manufacture of Salt for general sale.*

Factories for general sale of salt.

26. The provisions of this part shall apply only to salt factories or portions of factories worked for general sale of salt.

Power to cancel license on failure to manufacture.

27. The Commissioner may, after giving one month's notice, cancel the license for any salt work at which no salt shall have been manufactured during the two manufacturing seasons last preceding.

Removal of salt from closed factory.

28. Salt in store at any salt factory, or part of a factory, which may be closed in the manner hereinbefore provided, or the property of any licensee whose license may be cancelled or suspended, shall be removed within six months of the date of such closing or of the cancelment or suspension of such license, for which purpose only the license shall continue in force; and if the licensee shall fail so to remove the salt on payment of the duty thereon, it shall be forfeited to Government and disposed of as the Commissioner may think fit.

Salt to be protected, reheaped and secured and storage works constructed.

29. The Commissioner may, by order in writing, require a licensee to protect salt manufactured by him in such manner as the Commissioner shall consider sufficient in any place appointed by the Commissioner for the storage or keeping of salt for the factory or for salt works of the licensee, to reheap and secure in such manner as he may direct any portion remaining out of a heap or store which has been opened, or to construct or repair to the Commissioner's satisfaction any embankment, platform, building, or works required or set apart for the purpose of storage, and if the licensee shall fail to comply with such order within ten days of the receipt thereof, the Commissioner may do what is required ormay sell or destroy salt so left unprotected or unstored and may recover the cost from the licensee.

30. The Commissioner may call on a licensee to store in such manner as he may direct any sifted or refuse salt manufactured by him which may be lying unstored, or, at the option of the licensee, to destroy the same; and if the licensee shall fail either to store or to destroy such salt within ten days of the receipt of the order so to do, the Commissioner may cause such salt to be destroyed and may recover the cost of such destruction from him. The Commissioner shall determine whether any salt is sifted or refuse for the purposes of this Act.

Refuse salt to be stored or destroyed.

31. The licensees at each Salt Factory shall be bound, at their own expense, to construct and maintain within the limits of the factory in good repair to the satisfaction of the Commissioner all roads and all channels, reservoirs, embankments, drying grounds, platforms, and other works used or intended to be used for the manufacture and storage of salt, and also all works wherever situated for the protection of the factory from inundation or for the supply of brine.

Licensees to maintain in good order roads, channels, reservoirs, &c.

32. In case the licensees shall fail to execute the works specified in the last preceding section, or, with the sanction of the Governor in Council, whenever it appears desirable that any such work should be undertaken by the Salt Department, the Commissioner may cause such works to be executed and may recover the cost thereof, in such proportions as may seem fit, from the licensees.

When works may be undertaken by Salt Department.

33. Every person applying for a permit to remove salt from a salt factory under this Chapter shall be legally bound to declare in the application the price at which the salt has been sold and the full consideration given or agreed to be given therefor.

Applicants for permit to remove salt legally bound to state price.

34. No licensee shall be entitled to claim from Government compensation for any loss or damage to stored or unstored salt lying at any salt factory, unless it be proved that such loss or damage was caused by the wilful act or neglect of an officer of the Salt Department employed at the factory at which the salt was lying.

Liability of Government for loss or damages to salt in a factory.

CHAPTER IV.

MANUFACTURE AND REFINEMENT OF SALTPETRE.

35. No person, not being a public servant manufacturing on behalf of Government, shall manufacture or refine saltpetre unless duly licensed as hereinafter provided.

Manufacture of saltpetre without license illegal.

Commissioner may grant licenses.

36. The Commissioner may grant licenses for the manufacture or refinement of saltpetre.

Two kinds of licenses.

37. Such licenses may be either—

A. For the manufacture only of saltpetre in its crude form, or

B. For the manufacture and refinement of saltpetre, and the separation and purification of salt in the process of such manufacture and refinement.

Fees for licenses.

38. The Governor in Council may from time to time by notification determine the fees to be paid for such licenses in any local area.

Conditions of license.

39. Licenses under this chapter shall be annual and shall contain such particulars and conditions as the Governor in Council may from time to time prescribe, and every license under clause B, section 37, shall relate to specified premises.

Disposal of materials on cancellation or suspension of license.

40. Whenever any license under this chapter is cancelled or suspended under section 73, the Commissioner may, by order in writing, require the licensee to destroy all materials in his possession capable of being used in the manufacture of salt or in the refinement of saltpetre; and in case the licensee shall fail so to do within ten days, the Commissioner may cause them to be destroyed, and may recover the cost from the licensee.

Payment of duty on salt on cancellation or suspension of license.

41. The Commissioner may, from time to time, and shall, whenever any license under clause B, section 37, is cancelled or suspended, by order in writing, call on the licensee to pay the duty leviable under section 43 on all salt found on the premises and to remove the salt. If the licensee without reasonable excuse fail so to do within ten days, the Commissioner may sell the salt on behalf of Government subject to payment of duty, or may destroy it and recover the cost of such destruction from the licensee.

Licenses to fence premises and store materials.

42. The Commissioner may, from time to time, by order in writing, call on any person licensed under clause B, section 37—

(1) to fence the premises to which the license relates,

(2) to keep the fences in repair,

(3) to store or protect the materials used or produced therein, in such manner as he may direct. If the licensee fails to carry out

such order within one month, the Commissioner may cancel his license or may suspend it or may himself do what is required and recover the cost thereof from the licensee.

CHAPTER V.

REMOVAL OF SALT AND PAYMENT OF DUTY AND CHARGES.

Salt not removable from factory except under permit and on payment of duty and other charges.

43. Subject to any rules which may be framed by the Governor in Council under section 85, no salt shall be removed from any Salt Factory, otherwise than on account of Government, or for transport to a place of storage authorized by the Commissioner, and no salt shall be removed from such authorized place of storage, except under a permit and upon payment of duty at the rate fixed by the Governor-General in Council under the Indian Salt Act, 1882, and of the following charges :—

A—For every maund of salt sold on account of Government such sum as may be fixed under general or special order of the Governor in Council, or determined by auction sale, not being less than any minimum fixed under section 8 of the Indian Salt Act, 1882.

B—For every maund of salt sold by or on account of a licensee under section 10 (ii) such sum as the Commissioner, under such rules as the Governor in Council may from time to time prescribe, may fix as sufficient to cover all or any of the following charges or portions thereof :—

(1) The rent or assessment of the land occupied by the factory, and of the land or buildings on or in which the salt was stored.

(2) Interest at five per centum per annum on the capital cost of the works constructed at the expense of Government within the factory of any of the descriptions, or for any of the purposes, mentioned in section 31.

(3) The cost of any works executed under section 32 and not recovered thereunder.

(4) So much of the annual expenditure incurred by the Government on the establishments maintained at the factory or place of storage for the purposes of guarding the salt and of realizing the revenue thereon, as may exceed five percentum on the duty levied on the salt therein sold in preceding official years and as has not been recovered by Government.

Holder of permit to superintend weighment of salt and person superintending responsible for quantity removed.

44. Every holder of a permit for the removal of salt from a Salt Factory shall be bound to superintend either in person or by his servant or agent the weighing out of the same, and the person actually superintending such weighment shall be bound to prevent the removal of any quantity in excess of that for which the permit has been granted, and may test the weights and scales used in the weighment thereof.

Establishment of Preventive Stations.

45. The Commissioner may establish Preventive Stations at which all salt removed from any specified factory shall be detained and examined.

CHAPTER VI

OF THE POWERS OF PUBLIC OFFICERS FOR THE DETECTION AND PUNISHMENT OF OFFENCES AGAINST THE SALT LAW.

Magistrate may issue search warrant on information.

46. Any Magistrate on information given that contraband salt is manufactured, sold, or kept in any place within his jurisdiction may issue a warrant to search for such salt. Before issuing such warrant the Magistrate shall examine the informant on oath or affirmation and the examination shall be reduced into writing and be signed by the informant and by the Magistrate.

When Officer of Salt or other department may search without warrant; and the procedure to be observed.

47. Whenever any officer of the Salt, Police, Land Revenue, Abkari, or Customs Departments, empowered by the Governor in Council in this behalf, has reason to believe that contraband salt is being manufactured, sold, or kept in any place, and that the delay in obtaining a search warrant will prevent the discovery thereof, such officer shall first record in writing (so far as may be practicable)—

(*a*) the name, residence and calling of the informant (if any);

(*b*) the locality and description of the place in which, and the name of the person for or by whom, the contraband salt is manufactured, sold or kept; and

(*c*) the supposed quantity and description of the contraband salt, with the grounds of believing the same to be contraband;

and may then between sunrise and sunset enter and search any such place and may seize and carry away all contraband salt and all things liable to confiscation under this Act which he may find, and may destroy any works constructed in such place for the manufacture of such salt or to cause or assist the spontaneous generation of salt;

and may also arrest any person concerned in the manufacture, sale, or keeping of such contraband salt or in dealing therewith. Any person arrested under this section shall be admitted to bail by the officer conducting the search if sufficient bail be tendered for the appearance of such person before the Inspector.

When Head of village may search.

48. Whenever the Head of a village has credible information that contraband salt is manufactured, sold, or kept, in his village, he may between sunrise and sunset, search the place in which such salt is believed to be manufactured, sold, or kept, and shall seize and carry away all such salt and all things liable to confiscation under this Act which he may find and he shall forthwith forward them with a report mentioning the circumstances under which, and the person in whose possession, they were found, to the nearest Salt Factory or Police Station.

When offenders may be arrested, and anything liable to confiscation seized, without warrant.

49. Any officer of the Salt, Police, Land Revenue, Abkari or Customs Departments may arrest without warrant in any public thoroughfare or open place other than a dwelling place any person found committing an offence under this Act, and in any such thoroughfare or open place may seize and detain anything which he has reason to believe to be liable to confiscation under this Act, and may search any person, vessel, vehicle, animal, package, or covering, upon whom or in or upon which he may have reasonable cause to suspect any such thing to be.

Person refusing to give name and residence or giving false ones may be arrested.

50. Any person who may be accused or reasonably suspected of committing an offence under this Act, and who on demand of any officer of the Salt, Police, Land Revenue, Abkari or Customs Departments, or of any other person duly empowered, refuses to give his name and residence, or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Procedure in case of search.

51. All searches under this Chapter shall be made in accordance with the provisions of the Criminal Procedure Code, so far as the same are consistent herewith, and where made by a Head of a village shall be reported within twenty-four hours to the Magistrate having jurisdiction.

Report of search or seizure.

52. Whenever any search or arrest or seizure is made under section 47, 49, or 50, the officer making it shall, within twenty-four hours, make a full report of the particulars of such arrest or seizure to his immediate official superior.

53. Whenever any person is arrested under the provisions of this Chapter and has not been admitted to bail under section 47, the person arresting him shall forthwith forward him to the Inspector of the Circle in which the arrest was made, or, if such Inspector be not within a distance of ten miles from the place at which such arrest took place, to the nearest Police Station, with a report of the circumstances under which such arrest was made.

Persons arrested, how to be dealt with.

54. On any such person being brought to a Police Station as aforesaid, the officer in charge thereof shall admit him to bail to appear when summoned before the Inspector of the Circle within the limits of which the offence with which he is charged is suspected to have been committed, and in default of bail shall forward him in custody to such Inspector.

Procedure by Police Station officer.

55. Whenever any person charged with having committed an offence under this Act is brought before an Inspector or appears before him on bail, such Inspector shall after such inquiry as he may deem fit either release him or admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

Procedure by Inspector.

56. Before any person is released on bail, a bond in sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Inspector before whom he was bailed to attend or the Magistrate as the case may be.

Bond and sureties of accused.

Provided that the officer admitting any such person to bail may dispense with the requirement of a surety or sureties to the bond executed by such person.

57. Whenever, by reason of default of appearance of a person bailed to appear before an Inspector, such Inspector is of opinion that proceedings should be had to compel payment of the penalty mentioned in the bond, he shall forward it to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

Procedure in case of default of person admitted to bail to appear before Inspector.

58. Any Inspector may, after recording his reasons in writing, summon any person to appear before him whom he has reason to suspect of having committed

Inspector may summon suspected persons.

an offence under this Act. On such person appearing before such Inspector he shall be dealt with under section 55.

Salt officers may summon witnesses.

59. Any officer of the Salt Department duly empowered in this behalf by the Governor in Council may summon any person to appear before himself to give evidence in any investigation relating to the Salt Revenue or to an offence under this Act or to produce any document relevant thereto which may be in his possession or under his control.

Provided that no person shall be summoned to appear at a greater distance from his usual place of residence than the Governor in Council may from time to time by notification direct.

Terms of summons.

60. Summonses shall be in writing, shall require the person summoned to appear at a stated time and place, and shall be signed by the officer issuing them. Summonses under section 59 shall state whether the person summoned is required to give evidence or to produce a document, or both.

Examination of witnesses summoned by Salt officers.

61. Persons summoned under section 59 shall attend as required and shall answer all questions relating to such investigation put to them by such officer. Such answers shall be reduced into writing, and shall be signed by such officer.

When attendance to be dispensed with, and procedure in such cases.

62. Such officer may proceed to the residence of any person who from sickness or other infirmity may be unable to attend before him, or whom by reason of rank or sex it may not be proper to summon, and may there examine him instead of summoning him to appear; and the provisions of section 61 shall apply in such case.

Persons summoned to produce documents may send them.

63. Any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Report of Inspector gives jurisdiction to a competent Magistrate.

64. Whenever an Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction or admits any such person to bail to appear before such Magistrate, such Inspector shall also forward to such Magistrate a report setting forth the name of the accused person, the nature of the offence with which he is charged, and the names of the persons who appear to be acquainted with the circumstances of the case; and shall send to such Magistrate any article or samples which it may be necessary to produce before him. Upon the receipt of such report, the Magistrate shall

proceed in like manner as if report had been made to him under clause (*b*), section 191, of the Code of Criminal Procedure.

Powers of Inspector to cause attendance of witnesses.

65. Such Inspector shall exercise all the powers conferred by the Code of Criminal Procedure on an officer in charge of a Police Station in respect to causing the appearance before such Magistrate of such persons as he may consider necessary to be examined by the Magistrate.

Accused not to be detained in custody for a longer period than twenty-four hours without special authority.

66. No person accused or suspected of having committed an offence under this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable ; and such period shall not, in the absence of the special order of a Magistrate, exceed twenty-four hours exclusive of the time necessary for the journey of such person to the place where the Inspector may be and from thence to the Magistrate having jurisdiction.

Police to take charge of articles seized.

67. All officers in charge of Police Station shall take charge of and keep in safe custody, pending the orders of the Magistrate or of an Inspector, all things seized under this Act which may be delivered to them; and shall allow any officer of the Salt Department who may accompany such things to the Police Station or who may be deputed for the purpose by his superior officer to affix his seal to such things or to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the Police Station.

Officers of Salt and other departments to assist each other.

68. All officers of the Salt, Police, Land Revenue, Abkari and Customs Departments and Village Officers of the Revenue and Police Departments, shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers of Police and other departments bound to report offences against Act.

69. All officers of the Police, Land Revenue, Abkari and Customs Departments shall be bound to give immediate information to an officer of the Salt Department, and every officer of the salt Department shall be bound to give immediate information either to his immediate official superior or to an Inspector of all breaches of any of the provisions of this Act which may come to his knowledge ; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Zemindars and others bound to report manufacture of contraband salt.

70. All Zemindars, proprietors, tenants, under tenants and cultivators, or other persons who own or hold land on which there shall be any manufacture of contraband salt, shall in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Salt, Police, Land Revenue, Abkari or Customs Departments, immediately the same shall come to their knowledge.

By whom confiscations may be adjudged, &c.

71. At the conclusion of any inquiry into or trial of an offence under this Act, the Court may order the confiscation of anything liable to confiscation under this Act in connection with such offence.

Whenever confiscation is so ordered, the Court may give the owner of such thing an option to pay, in lieu of confiscation, such sum of money as the Court may think fit.

In any other case when anything liable to confiscation under this Act has been seized, the Commissioner may, subject to such rules as the Governor in Council may prescribe, order the confiscation thereof.

Disposal of things seized.

72. The Governor in Council may by rule provide in regard to things liable to be seized under this Act—

(*a*) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale :

(*b*) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rule, appear to claim such thing and tender the duties, penalties, and charges, (if any) due in respect thereof, it may be sold by public auction, and such duties, penalties, and charges be defrayed from the proceeds of the sale :

(*c*) that the surplus proceeds of a sale under clause (*a*) or clause (*b*) of this section shall, if not claimed by the owner of the thing seized within a period to be fixed by such rule, be forfeited to Government.

73. The Commissioner may cancel any license if the licensee shall have been convicted of any offence under this Act, or may suspend or cancel any license in case of breach of the conditions thereof.

Power to cancel and suspend licenses.

CHAPTER VII.

PENALTIES.

74. Any person who—

Penalty for removal of salt without or in excess of permits, &c.

(*a*) removes any salt without or in excess of the permits rendered necessary by this Act;

(*b*) except for agricultural or building purposes, excavates, collects or possesses salt-earth in any local area where it is contraband salt ; or

(*c*) manufactures contraband salt in any other way than by excavating or collecting salt-earth ; or

(*d*) purchases, obtains, possesses, sells, or weighs contraband salt other than salt-earth knowing or having reason to believe it to be contraband ; or

(*e*) refines saltpetre without such license as is prescribed by Chapter IV of this Act ; or

(*f*) attempts to commit or within the meaning of the Indian Penal Code abets the Commission of any of the above acts,

shall on conviction be punishable for every such offence with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees, or with both.

75. Any person who is guilty of any act or intentional omission in contravention of section 44 of this Act, or of any rule framed by the Governor in Council under clauses (*c*), (*e*) and (*g*) of the section 85, or of any permit granted under this Act, shall on conviction be punishable with fine which may extend to two-hundred rupees.

Penalty for act or omission in contravention of section 44, clauses (*c*), (*e*) and (*g*) of section 85, or of any permit.

76. Any officer of the Salt, Police, Land Revenue, Abkari or Customs Departments, or any head of a village, who enters for the purposes of search any house building, vessel or enclosed place, without reasonable cause to believe that contraband salt is manufactured, sold, or kept therein ; or who vexatiously and un-

Penalty for vexatious seizure or arrest by Officer of Salt or other department or by Village Head.

necessarily seizes any article on the pretence of seizing or searching for contraband salt, or who vexatiously and unnecessarily detains, searches or arrest any person or stops or detains any vehicles or vessels in transit, or who in any other way vexatiously exceeds his lawful powers, shall on conviction be punishable with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months, or with both.

Penalty for vexatious delay by officer of Salt or other department.

77. Any Salt or other officer exercising powers under this Act or any other person who vexatiously and unnecessarily delays forwarding to the Inspector or to the officer in charge of the nearest Police Station, as required by section 53 of this Act, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Penalty for Salt officer refusing to do duty, or using violence to person in his custody.

78. Any Salt officer who without lawful excuse shall cease or refuse to perform or shall withdraw himself from the duties of his office, unless expressly allowed to do so in writing by the Commissioner or unless he shall have given to his superior officer two months, previous notice in writing of his intention to do so; or,

who shall offer any unwarrantable violence to any person in his custody;

shall, on conviction, be punishable with fine which may extend to six months' pay or with imprisonment which may extend to three months, or with both.

What things are liable to confiscation.

79. All contraband salt;

all salt, saltpetre, saline substances or salt-earth in regard to which any offence relating to salt may be proved to have been committed;

all vessels, vehicles, materials, implements, utensils, animals, packages and coverings employed in the manufacture, purchase, sale, keeping, concealment or conveyance thereof, or in otherwise dealing therewith;

shall be liable to confiscation.

CHAPTER VIII.

GENERAL PROVISIONS.

Rules and Notifications how to be published.

80. All Rules made and Notifications issued under this Act shall be made and issued by publication in the *Fort St. George Gazette*; provided that all such Rules and Notifications where by any act or omission is made punishable shall be published in three successive issues of the *Fort St. George Gazette*, and for

at least two months in the official Gazettes of the districts to which or to parts of or to places in which it may be determined that they shall apply. All such Rules and Notifications shall thereupon have the force of law and be read as part of this Act and may in like manner be varied, suspended or annulled.

Mode of conferring powers, &c.

81. All notifications and orders conferring powers or imposing duties under this Act may refer to persons by name or by office or to classes of officials generally by their official titles.

Procedure as to service of summons, &c.

82. Whenever under the provisions of this Act it may be necessary to serve any person with a summons or a notice, or to tender a license, such service or tender shall be made in accordance with the provisions of the Code of Criminal Procedure regarding the service of summons, so far as they may be applicable to the circumstances of the case.

Provided that a registered letter addressed to the usual residence of any person may be substituted for any other mode of serving a summons or notice upon that person.

And provided also that when a notice has to be served upon the general body of the licensees of a Salt Factory it shall be sufficient to affix the notice to a prominent part of the factory office and to keep it so affixed for not less than seventy-two hours.

Presumption as to possession.

83. All contraband salt found in any house, building or enclosed place, shall be presumed, until the contrary is proved, to be in the possession of the occupier of such house, building or place.

Recovery of sums due to Government.

84. All sums recoverable under this Act, or in any way due to Government on account of the Salt Revenue, may be deducted by the Commissioner from any money owing to the person from whom such sums may be recoverable or due which may be in the hands of the Commissioner or under his disposal or control, or may be recovered by the Commissioner by attachment and sale of salt belonging to such person and remaining within the limits of a factory. If not so recovered, such sums may be recovered by Collectors of Districts on application from the Commissioner as if they were arrears of Land Revenue.

Power to make rules.

85. The Governor in Council may from time to time make Rules consistent with this Act for regulating the following matters, namely—

(*a*) the grant of licenses and permits and the particulars and conditions to be contained therein ;

(*b*) the registry and acceptance of transfers and relinquishments of licenses ,

(c) the manufacture, storage, sale and removal of salt or saltpetre in and from Salt factories;

(d) the time for the payment of duty and other charges and the assessment of such charges;

(e) the manufacture and refinement of saltpetre;

(f) the grant of batta to witnesses and of compensation for loss of time to persons released by an Inspector on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;

(g) the routes by which salt shall be taken to a preventive station;

(h) the disposal of things seized or confiscated; and

(i) generally the carrying out of the provisions herein contained.

Appeal against orders.

86. An appeal shall lie from all proceedings and orders of officers appointed under this Act to their respective immediate superiors.

Limitation of suit or prosecution for anything done or ordered to be done under the Act.

87. No action shall lie against the Secretary of State for india in Council or against any officer in respect of any order passed or act *bona fide* done or ordered to be done under this Act. No suit or prosecution shall be instituted for anything done or ordered to be done under this Act after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

SCHEDULE.

Number and Year.	Subject.	Extent of Repeal.
Regulation 1 of 1805 ...	Revenue derivable from salt... ...	The whole so far as it has not, already been repealed.
Regulation II of 1807 ...	Salt monopoly in Canara and Malabar.	The whole so far as it is now in force in any local area.
Act XVII of 1840 ...	Penalties for breaches of Salt Laws ...	Do. Do.
Act VII of 1852 ...	Do. Do. ...	Do. Do.
Madras Act VI of 1871...	Excise duty on Salt...	The whole so far as it has not, already been repealed.
Madras Act II of 1878...	Earth-salt... ...	The whole so far as it is now in force in any local area.
Madras Act VI of 1878...	Salt Commissioner...	The whole.
Madras Act I of 1882 ...	Protection of the Salt Revenue	Do.
Madras Act IV of 1882...	Amending the Madras Act I of 1882.	Do.

MADRAS ABKARRY ACT.

M. ACT NO. I. OF 1886.

Passed on the 2nd February 1886.

An Act to consolidate and amend the Abkari Law of the Presidency of Madras.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale, and possession of intoxicating liquor and of intoxicating drugs in the Presidency of Madras; It is enacted as follows :—

Note.

In March 1884 the Government appointed a Committee consisting of Messrs. Garstin, H. E. Stokes, Wilson and Bliss, to advise on the subject of the Abkari administration. The Government at the same time announced their decision to transfer the duty of maintaining a preventive Establishment from the contractors to the State, and considered the Salt Department as peculiarly fitted for the work. In presenting their report in April 1884, the Committee submitted an abkari Bill—the ground work of the Present Act—based on the Bombay Act V of 1878, as a necessary corollary to their recommendations. This Bill was on the legislative anvil for a comparatively long period being repeatedly subjected to discussion in the Council before it was enacted into law.

I.—PRELIMINARY AND DEFINITION.

Short title.

1. This Act may be cited as "The Madras Abkari Act, 1886."

Extent.

It extends to the whole of the Presidency of Madras;

Commencement.

And it shall come into force in any local area within the said Presidency to such extent and from such date as the Governor in Council by Notification shall direct

Note.

By Notification No. 39, in the Fort St. George Gazette, dated the 17th February 1886, the Act came into force as respects liquor only and not intoxicating drugs in the whole of the Madras Presidency, except the Scheduled Districts, from the 17th February 1886.

See Revenue Notification No. 74, 17th March 1886, at page 187 of the Fort St. George Gazette of the same date, changing the designation of the Department of Salt Revenue to that of Salt and Abkari Revenue.

Repeal of enactments.

2. From the date on which this Act comes into force in any local area, the enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule :

Provided that all licenses granted under any of the said enactments in force on the date on which this Act comes into force in any local area shall continue in force for the periods for which the same have been respectively granted, subject to the provisions of the enactments under which such licenses were granted :

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

Interpretation.

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

"Abkari Revenue."

(1) "Abkari revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.

Note.

This definition is a reproduction of that in the Bombay Abkari Act. The expression used here is, it will be observed, "liquor" and not intoxicating liquor" as in the preamble.

"Abkari officer."

(1) "Abkari officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under section 4 or 5 and includes the Board of Revenue when exercising any of its functions or powers in respect of Abkari Revenue.

Note.

Regarding the powers of the Board of Revenue of Madras, see Regulation I of 1803. Regulation II of 1803 describes and determines the powers of Collectors in the Madras Presidency.

"Commissioner."

(3) "Commissioner" means the officer appointed by Government under section 4, clause(*a*).

"Collector."

(4) "Collector" means a Collector of Land Revenue, or any person appointed under section 4, clause (*b*), to exercise all the powers or to perform all the duties of a Collector under this Act.

"Abkari Inspector."

(5) "Abkari Inspector" means an officer appointed under section 4, clause (*d*).

"Imprisonment."

(6) "Imprisonment" means imprisonment of either description as defined in the Indian Penal Code.

"Toddy."

(7) "Toddy" means fermented or unfermented juice drawn from a cocoanut, palmyra, date or any other kind of palm tree.

"Spirits."

(8) "Spirits" means any liquor containing alchol and obtained by distillation.

"Liquor."

(9) "Liquor" includss spirits of wine, methylated spirits, wine, toddy, beer and all liquid consisting of or containing alcohol.

Note.

It will be noted that the term defined is "liquor" and not "intoxicating liquor" as in the preamble. See also the definition of 'Abkari Revenue' above.

"Beer." (10) "Beer" includes ale, stout, porter and all other fermented liquors usually made from malt.

"Country liquor." (11) "Country liquor" means liquor manufactured in British India on which duty of excise has not been levied or is not leviable under this Act at the full rates of duty chargeable on liquor imported into British India from foreign countries by sea.

"Foreign liquor." (12) "Foreign liquor" includes all liquor other than country liquor.

Provided that in any case in which doubt may arise the Governor in Council may declare by notification what for the purposes of this Act shall be deemed to be "country liquor" and what "foreign liquor".

Note.

Foreign liquor includes not only liquor imported from foreign countries, but also liquor manufactured in British India on which duty of excise at the full tariff rate chargeable on liquor imported into British India has been levied or is leviable.

"Intoxicating drug." (13) "Intoxicating drug" includes ganja, bhang and every preparation and admixture of the same, and every intoxicating drink or substance prepared from any part of the hemp plant (*Cannabis Sativa* or *Indica*), from grain or from other material and not included in the term "liquor," but does not include opium or anything included within the meaning of that word as defined in the Indian Opium Act, 1878.

"Sale" or "selling." (14) "Sale" "or selling" includes any transfer otherwise than by way of gift.

Note.

Under the Indian Contract Act IX of 1872. "sale" is the exchange of property for a price. It involves the transfer of the ownership of the things sold from the seller to the buyer.

In Act III of 1864 "sale" or "selling" was defined to include bartering or receiving in pawn for liquor, grain or any other articles.

The supplying of liquor to members of clubs of the ordinary kind and not of a proprietary character was declared not to amount to "sale." See Proceedings of the Board of Revenue dated the 30th June 1886 No. 1478, embodying the opinion of the Advocate General of Madras.

In the matter of Mohon Walad Vithoba, the Bombay High Court held that a transfer of ganja from one shop to another, both shops belonging to the same licensee, does not constitute a sale.

"Import." (15) "Import" means to bringing into the Madras Presidency from sea, or from foreign territory or from any other part of British India.

(16) "Export" means to take out of the Madras Presidency to sea, or to foreign territory or to any other part of British India.

"Export."

(17) "Transport" means to move from one place to another within the Madras Presidency.

"Transport."

Note.

Place includes also a house, building, shop, tent and vessel. See clause 20.

(18) "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced or prepared, and also re-distillation and every process for the rectification of liquor.

"Manufacture."

Note.

In their Proceedings dated 17th June 1870 based on Act III of 1864, the Madras High Court ruled that sweet palm juice which by exposure to the operation of natural causes, ferments and becomes toddy is as much *manufactured* by the person who exposes it as if the same result were produced by the process of distillation. The definition above embraces this ruling.

(19) "Rectification" includes every process whereby spirits are purified or are colored or flavored by mixing any material therewith.

"Rectification."

(20) "Place" includes also a house, building, shop, tent and vessel.

"Place."

II.—ESTABLISHMENT AND CONTROL.

4. Notwithstanding anything contained in Regulations I and II of 1803, the Governor in Council may, from time to time, by Notification applicable to any district or local area in which this Act is in force,

(*a*) appoint an officer, who shall exercise all the powers of a Collector in respect of the Abkari Revenue and who shall, either as a member of the Board of Revenue or subject to the orders of the Board of Revenue or independently of the Board of Revenue, as the Governor in Council may direct, have the control of the administration of the Abkari Department or of the collection of the Abkari Revenue or of both ; and may direct that the control exercised by the Board of Revenue over Collectors in respect of the Abkari Revenue shall be exercised by such officer ;

The Governor in Council may appoint an officer to control the administration of the Abkari Department;

(*b*) appoint any person other than the Collector of Land Revenue to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the Abkari Revenue, either concurrently with or in exclusion of the Collector of Land Revenue, subject to such control as the Governor in Council may from time to time direct ;

may appoint special Collectors of Abkari Revenue;

may withdraw Abkari powers from Board of Revenue or Collectors of Land Revenue;

(*c*) withdraw from the Board of Revenue or the Collector of Land Revenue any or all of their or his powers in respect of the Abkari Revenue;

may appoint officers to take action under sections 40 to 53;

(*d*) appoint officers to perform the acts and duties mentioned in sections 40 to 53 inclusive of this Act;

(*e*) appoint subordinate officers of such classes and with such designations, powers, and duties under this Act as the Governor in Council may think fit;

and subordinate officers;

(*f*) order that all or any of the powers and duties assigned to any officers under clauses (*d*) and (*e*) of this section shall be exercised and performed by any Government officer or any person;

may appoint any Government officer or other person to act as above;

(*g*) delegate to any Abkari officer all or any of his powers under this Act.

and may delegate any of his powers to an Abkari officer.

Note.

This chapter relates to the appointment of an Abkari Commissioner and of Subordinate Abkari Officers. The provisions made are such as to admit of the gradual transfer of the administration to the Special Department and to enable the Government to vary the organization of the staff, so as to meet the circumstances of different parts of the country and different systems of taxation.

Rules for the guidance of Abkari officers.

5. The Governor in Council may from time to time make rules—

(1) prescribing the powers and duties under this Act to be exercised and performed by Abkari officers of the several classes; and

(2) regulating the delegation by the Board of Revenue, by the Commissioner, or by Collectors of any powers conferred by this Act or exercised in respect of Abkari Revenue under any Act for the time being in force.

IMPORT, EXPORT, AND TRANSPORT.

Import of liquor or intoxicating drug.

6. No liquor or intoxicating drug shall be imported unless, being liable to the payment of duty under the Indian Tariff Act, 1882, or any other law for the time being in force relating to the duties of customs on goods imported into British India, it has been dealt with according to such law.

Provided that subject to the orders of the Governor in Council the Collector may, from time to time, permit the import of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, other than liquor or intoxicating drugs liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Note.

This section corresponds with section 9 of the Bombay Abkari Act V of 1878.

The Collector has not been authorized to delegate his powers under this Section.

For the definition of "liquor," "intoxicating drug," "import," "export," and "transport." See sec. 3. See the Indian Tariff Act VIII of 1894 as to the rates of duty on liquors.

Under section 6 the permission of the Governor in Council is required for the import of liquor other than liquor liable to the payment of duty under the Tariff Act, or any other law for the time being in force relating to duties of customs on goods imported into British India. Spirits manufactured in Mysore are not liable to any duty of customs, and therefore in connection with the procedure to be adopted for sending a consignment of country spirit from Bangalore to England it was ruled that under Section 6 of the Abkari Act, the consent of the Governor in Council is necessary before liquor can be imported into British India from Mysore. Such permission will be granted on condition that the spirit is exported under bond subject to the provisions of the Customs Act and the Board's Standing Order No. 161, or conveyed to a distillery or private warehouse under bond with a view to its being excised for local consumption.—See G. O., dated the 10th February 1887, No. 186.

With regard to the question of establishing a depot at Salem for the supply of country spirits from the Government distillery at Bangalore, it was decided that as Mysore has not been declared to be "foreign territory" under Act XI of 1882,* the import of spirits from Mysore falls under the proviso to Section 6 of the Abkari Act, and may be permitted subject to the payment of such duty as may be fixed under Section 17 (*a*) and under such other terms as the Collector may prescribe. Duty would have to be levied at the rates fixed for the local areas in which the spirits were declared for consumption ; but as there is nothing in the Abkari Act to necessitate its levy at the moment of import, its actual collection might be deferred until the time of its issue from the warehouse. Sufficient notice should be given to the Collector of the intended despatch of consignments of spirits, to enable him to issue permits for their transport from the frontier to their destination ; and the importer should execute either a special or a general bond, as at present required in the case of transport of spirits from distilleries to excise depots. The importer must, of course, produce with each consignment the permit granted by the officer in charge of the Bangalore distillery. See Proceedings of the Board of Revenue, dated the 31st March 1886, No. 783.

The importation of toddy from the Nizam's dominions into Bellary has been permitted under the proviso to Section 6, on the payment of a transport duty of one rupee for every 25 gallons of toddy equivalent to a duty of 8 pies per gallon, as an experiment, under Section 18 (*f*) of the Abkari Act. If the Nizam's dominions had been declared to be "foreign territory" under the Tariff Act of 1882,* the import duty on toddy would be limited to one anna a gallon. See G. O., dated the 21st May 1886, No. 367.

Export of liquor or intoxicating drug.

7. No liquor or intoxicating drug shall be exported unless it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted

* Repealed.—See now Act VIII of 1894.

by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation.

Provided that subject to the orders of the Governor in Council the Collector may, from time to time, permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Note.

This section corresponds with section 10 of the Bombay Abkari Act.

There is an obvious inconsistency in the expression "in the *said* Presidency" indicating the Madras Presidency, in the absence of any prior allusion to it in this Section or Section 6. This arose probably in transcribing Section 10 of the Bombay Abkari Act which ran as follows:—

"No liquor or intoxicating drug shall be exported by land or by sea from any part of the Presidency of Bombay unless (a) it has been lawfully imported by sea into any port in the said presidency, &c."

Under this section the export of liquor is permissible only under the orders of the Governor in Council. Collectors have been authorized by Government to permit such export. In the case of exports to Pondicherry or any other foreign settlement on the frontier of which a Customs Establishment is maintained, there is no necessity to levy duty provided that a bond is executed, as in the case of spirits exported by sea, conditioned that the tariff rate of duty be paid on all such spirit as is not so exported within a specified period. In the case of export to any other foreign territory such as Mysore, and Hyderabad, the tariff rate must be prepaid, as there will be nothing to prevent the spirit passing into consumption in British India, no frontier customs establishment being maintained. The tariff rate of duty must also be prepaid on all spirits exported to other provinces. G. O., dated the 3rd December 1886, No. 1063.

Sections 6 and 7 not to affect certain laws and powers of Governor General in Council.

8. Nothing in the last two preceding sections shall be deemed to affect any law for the time being in force which empowers the Governor-General in Council to prohibit or restrict the importation of liquor or of intoxicating drugs or which empowers the Governor-General in Council to exempt any liquor or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

Prohibition of the transport of liquor.

9. The Governor in Council may, from time to time by Notification, prohibit the transport of liquor or of intoxicating drugs, or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

Transport of liquor or intoxicating drug

10. No liquor or intoxicating drug exceeding such quantity as the Governor in Council may from time to time prescribe by Notification, either generally for the whole Presidency or for any local area, shall be transported except under a permit issued under the provisions of the next following section.

Provided that in the case of foreign liquor transported for *bonâ fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act such permits shall be dispensed with unless the Governor in Council shall by Notification otherwise direct with respect to any local area.

Note.

It should be noted that the law as to the transport and possession of foreign liquor differs materially from that as to the transport and possession of country liquor. As regards the latter, the law is, it will be observed, that transport and possession are illegal save so far as Government may from time to time permit. As regards foreign liquor, however, the law is almost exactly the reverse of the above in that transport without permit, except where the Government by notification issues directions to the contrary, and possession for *bonâ fide* private consumption, are legal.

11. Permits for the transport of liquor or intoxicating drugs may be issued by the Collector or by any person duly empowered in that behalf.

Permits for transport.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs or special for specified occasions and particular consignments only.

Every permit shall specify—

(*a*) the name of the person authorized to transport liquor or intoxicating drugs;

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted;

(*d*) any other particulars which the Governor in Council may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

Note.

The last clause is in consonance with the ruling of the Madras High Court, dated 20th July 1870, passed in connection with Section 22 of the Mofussil Abkari Act III of 1864, that there is nothing to restrict the validity of the permit referred to in that Section to the actual person to whom it is issued, or to prevent it from protecting liquor conveyed by third parties.

IV.—MANUFACTURE, POSSESSION, AND SALE.

12. No liquor or intoxicating drug shall be manufactured;
no hemp plant (*Cannabis Sativa* or *Indica*) shall be cultivated;
no toddy producing tree shall be tapped;
no toddy shall be drawn from any tree;
no distillery or brewery shall be constructed or worked; and

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.

no person shall use, keep, or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquor other than toddy or any intoxicating drug,

except under the authority and subject to the terms and conditions of a license granted by the Collector in that behalf, or under the provisions of section 21.

Provided that the Governor in Council may by Notification direct that in any local area it shall not be necessary to take out a license for the manufacture of liquor for *bonâ fide* home consumption.

Note.

The proviso to this section enabling the Government in any part of the Presidency to declare a license unnecessary for the manufacture of liquor intended for *bonâ fide* home consumption, is apparently an adaptation of the provisions of section 28 of the Abkari Act III of 1864. It will of course be noted that a Notification under this section would only cover manufacture of liquor for *bonâ fide* home consumption and would not legalize sale without license. (See also Sections 15 and 16.)

In the absence of a provision in this Section similar to that in Section 11, that permits for the transport of liquor "shall extend to and include servants and other persons employed by the grantees and acting on their behalf" the Magistrate of a District drew the inference that agents were excluded from using a license granted under Section 12 and considered that a person was properly convicted who drew toddy under a license granted to his brother. But the High Court of Madras in their Proceedings dated 10th December 1886 held that the license granted to the brother of the accused was sufficient authority for the accused drawing toddy as the agent for, and under the authority of, the licensee, and did not agree with the District Magistrate that the accused was liable to punishment for drawing toddy without a license. The toddy was drawn under the authority of a license though not actually by the person in whose name the license was issued. The intention of the Legislature was to prohibit the drawing of toddy without a license, but clearly not to prevent the delegation of the actual work to the servant or agent as appears from the provisions of Section 64 read in connection with Section 55 and other Sections therein referred to.

In their Proceedings dated 11th December 1871, and 11th November 1872, the High Court of Madras held under Section 21 of the Madras Abkari Act III of 1864, that the license to sell liquor made out in the name of a male member of a family would protect the wife, brother or agent of the licensee selling on his behalf.

Possession of liquor or intoxicating drugs in excess of the quantity prescribed by Government prohibited.

13. No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the Governor in Council may from time to time prescribe by Notification, either generally for the whole Presidency or for any local area, in respect of any specified description or kind of liquor or intoxicating drug, unless under a license granted by the Collector in that behalf.

Provided that—

No fee to be charged for license for possession for private consumption.

(1) No fee shall be charged for any such license granted for the possession of such liquor or intoxicating drugs for *bonâ fide* private consumption or used.

Proviso as regards foreign liquor.

(2) Nothing in this Section extends to any foreign liquor in the possession of any warehouseman as such, or purchased by any person for his *bonâ fide* private consumption and not for sale.

Note.

There was a provision similar to this in certain respects in Section 14 of Act III of 1864 which ran as follows :—

"All persons not being licensed to manufacture or to sell or to manufacture and to sell liquor are prohibited from having in their possession any quantity thereof exceeding one imperial quart without a valid permit, except such quantities of English or foreign wines, beer or spirits as may be required for *bonâ fide* private consumption."

Establishment of public distilleries and of warehouses.

14. The Commissioner may with the previous sanction of the Governor in Council—

(*a*) establish a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under section 12 on such conditions as the Governor in Council deems fit to impose ;

(*b*) discontinue any public distillery so established ;

(*c*) license at or in connection with any licensed distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ;

(*d*) establish a public warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ; and

(*e*) discontinue any public warehouse so established.

Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor or intoxicating drugs subject to duty pending removal for local consumption or for export.

Sale of liquor or intoxicating drug without license prohibited. Power to exempt toddy.

15. No liquor or intoxicating drug shall be sold without a license from the Collector, provided that a person having the right to the toddy drawn from any tree may sell the same without a license to a person licensed to manufacture or sell toddy under this Act, and a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a license those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to sell, manufacture or export intoxicating drugs.

Provided also that the Governor in Council may, from time to time by Notification, suspend in any local area any or all of the provisions relating to toddy contained in this Act.

Provided further that the Governor in Council may in like manner declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery.

Note.

The proviso to this Section contemplates only a prospective exemption.

The words "for the purpose of the manufacture of jaggery" at the end of the second proviso appear to be a surplusage, as toddy drawn in pots freshly coated with lime does not become a fermented liquor by keeping and is consequently useless for the purpose of distilling spirit therefrom.

The word "freshly" appears to have been advisedly introduced into the last proviso. The principal effect of lime is to check fermentation.

It has been decided on the strength of the opinion of the Advocate General of Madras that it is not necessary for a club of the ordinary kind and not of a proprietary character to take out a license to sell liquor to its members. (Proceedings of the Board of Revenue dated 30th June 1886, No. 1478.)

Exclusive privileges of manufacture, &c, may be granted.

16. It shall be lawful for the Governor in Council to grant to any person or persons on such conditions and for such period as may seem fit the exclusive or other privilege

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drugs within any local area.

No grantee of any privilege under this section shall exercise the same until he has received a license in that behalf from the Collector.

In such cases, if the Governor in Council shall by Notification so direct, the provisions of section 12 relating to toddy and toddy-producing trees shall not apply.

V.—Duties.

Duty on liquor or intoxicating drugs

17. A duty shall, if the Governor in Council so direct, be levied on all liquor and intoxicating drugs—

(*a*) permitted to be imported under the proviso to section 6; or

(*b*) permitted to be exported under the proviso to section 7; or

(*c*) manufactured under any license granted under section 12; or

(*d*) manufactured at any distillery established under section 14; or

(*e*) permitted under section 11 to be transported; or

(*f*) sold in any part of the said Presidency,

of such amount as the Governor in Council may from time to time prescribe.

Provided that it shall be lawful for the Governor in Council to exempt any liquor or intoxicating drug from any duty to which the same may be liable under any of the provisions of this Act.

Note.

In connection with clauses (*c*) and (*d*) the Government of India pointed out that they were in conflict with section 6 of the Tariff Act XI of 1882* which they consequently repealed by Act IX of 1885* (India.)

Clause (*f*) is new and is not in the Bombay Abkari Act. The expression "the said Presidency" in this clause referring to the Madras Presidency is apparently incorrect without prior allusion to it. This clearly arose in copying the Bombay enactment. Clause (*a*) above stood as follows in the original Bill :—

"(*a*) Permitted to be imported into any part of the Presidency of Madras under the provision, &c." But the wording of the clause was subsequently improved by the omission of the words "into any part of the Presidency of Madras &c.," without effecting the requisite alteration in clause (*f*).

How duty may be imposed.

18. Such duty may be levied in one or more of the following ways—

(*a*) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of the distillery or brewery, as the case may be ; or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the Governor in Council may prescribe ;

(*b*) in the case of intoxicating drugs by a duty to be rateably charged on the quantity produced or manufactured ;

(*c*) by payment of a sum in consideration of the grant of any exclusive or other privilege ;

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drug in any local area and for any specified period of time :

(*d*) by fees on licenses for manufacture or sale ;

(*e*) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the Governor in Council may direct ; or

(*f*) by transport duties assessed in such manner as the Governor in Council may direct.

Note.

Clause (*a*) introduces the English system of charging excise duty and the improved supervision of distilleries.

Clause (*e*) enables Government to take the toddy revenue in the shape of a tax on trees tapped. This is intended as an improvement on the farming system under which it is impossible to regulate the taxation with reference to the quantity consumed and which thus fails in the first essential of a good system.

* Repealed.—See now Act VIII of 1894.

19. When duty is levied by way of tax on toddy trees under section 18, the Governor in Council may by Notification direct that the license required under section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the license being granted to such person so applying for it; and when such notification has been issued such tax shall, in default of payment by the licensee, be recoverable from the owner or other person in possession who has so consented.

Tax for tapping unlicensed trees, from whom leviable.

When, in like case, trees are tapped without license, the tax due shall be recoverable primarily from the tapper or in default by him from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees unless he proves that the trees were tapped without his consent.

20. All or any of the duties liable under this Act in any local area may, with the sanction of the Governor in Council, be farmed, subject to such payment and on such other conditions as the Governor in Council shall prescribe. Farmers of duties under this section shall take out licenses as such from the Collector.

Duties may be farmed.

21. When the exclusive privilege of manufacturing toddy has been granted under section 16, the Governor in Council may declare that the written permission of the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and effect as a license from the Collector for that purpose under section 12.

Toddy farmer may grant license.

Note.

This section apparently refers only to the "exclusive" privilege and not to any "other" privilege which may be granted under Sec. 16.

Under the power thereby delegated "the Commissioner of Salt and Abkari Revenue hereby declares that the written permission to draw toddy of a grantee of the exclusive privilege of manufacturing toddy shall have, within the area to which the privilege of such grantee extends, the same force and effect as a license from the Collector for that purpose under section 12 of the said Act throughout the Madras Presidency."—See *Fort St. George Gazette*, dated 14th April 1886, p. 581.

22. In the absence of any contract or condition to the contrary, any grantee of any exclusive or other privilege may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall exercise any rights as such unless and until the grantee or farmer, as the case may be, shall have applied to the Collector for a license to be given to such lessee or assignee and such lessee or assignee shall have received the same.

Farmer may let or assign.

23. It shall be lawful for any such grantee, farmer, lessee or assignee as aforesaid to proceed against any person holding under him for the recovery of any money

Recovery by farmer of rents due to him.

due to him as if it were an arrear of rent recoverable under the law for the time being in force with regard to land holder and tenant.

Provided that nothing contained in this section shall affect the right of any such grantee, farmer, lessee or assignee, to recover by civil suit any such amount due to him from any such person as aforesaid.

Note.

This section proceeds on the lines of Section 11 of Act III of 1864 as amended by Act V of 1879 (Madras), by which renters were authorized to proceed against subrenters or their sureties, and subrenters against shop-keepers and their sureties, in the same manner and subject to the same conditions as landholders are or may be empowered by law to proceed against their tenants for arrears of rent. Madras Act VIII of 1865 provides for recovery of rent from tenants.

Compare section 23 with section 28 *infra*.

VI.—LICENSES, &c.

Form and conditions of Licenses, &c.

24. Every license or permit granted under this Act shall be granted—

(*a*) on payment of such fees, if any ;

(*b*) for such period ;

(*c*) subject to such restrictions and on such conditions ; and

(*d*) shall be in such form and contain such particulars

as the Governor in council may direct either generally or in any particular instance in this behalf.

Counterpart agreement to be executed by licensees.

25. Every person taking out a license under this Act may be required to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of his agreement as the Collector may require.

Note.

See section 3 for definition of "Collector" This section is merely permissive whereas section 8 of Act III of 1864 was imperative and an engagement could not be legally dispensed with under it.

Power to recall licenses, &c.

26. The Collector may cancel or suspend any license or permit granted under this Act,

(*a*) if any fee or duty payable by the holder thereof be not duly paid ; or

(*b*) in the event of any breach by the holder of such license or permit or by his servants, or by any one acting with his express or implied permission on his behalf of any of the terms or conditions of such license or permit, or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to Abkari revenue, or of any cognizable and non-bailable offence ; or

(*d*) where a license or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person ; or

(*e*) if the condition of the license or permit provide for such cancelment or suspension at will.

Note.

Under the Code of Criminal Procedure, "cognizable offence" means an offence for which a Police officer, within or without the Presidency towns, may in accordance with the second schedule, or under any law for the time being in force, arrest without warrant. "Non-bailable offence" means an offence shown as not bailable in the second schedule or which is made not bailable by any other law for the time being in force.

See sec. 67 as to power to compound offences.

VII.—GENERAL PROVISIONS.

Certain licensees required to keep instruments for testing, &c.

27. Every person who manufactures liquor or sells country liquor under a license granted under this Act shall be bound—

(*a*) to supply himself with such of the prescribed measures for the sale of country liquor and with such of the prescribed instruments for testing the strength of such liquor as the Collector may direct, and to keep the same in good condition ; and

(*b*) on the requisition of any Abkari officer duly empowered in that behalf at any time to measure out or to test the strength of any such liquor in his possession in such manner as the said Abkari officer may require.

Recovery of duties, &c.

28. All duties, taxes, fines and fees payable to Government direct under any of the foregoing provisions of this Act or of any license or permit issued under it, and all amounts due to Government by any grantee of a privilege or by any farmer under this Act or by any person on account of any contract relating to the Abkari revenue may be recoverd from the person primarily liable to pay the same, or from his surety (if any), as if they were arrears of Land Revenue, and in case of default made by a grantee of a privilege or by a farmer, the Collector may take the grant or farm under management at the risk of the defaulter or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the Collector may recover any monies due to the defaulter by any lessee or assignee as if they were arrears of Land Revenue.

Note.

The force of the word "foregoing" in line 2 of the section is not understood. Provisions regarding fines follow the section and do not precede it.

Power to frame Rules.

29. The Governor in Council may from time to time frame Rules—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who distil spirits from it, or who use it in the manufacture of bread;

(*b*) for determining the number of licenses of each description to be granted in any district or place;

(*c*) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

(*d*) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith;

(*e*) prescribing the measures to be used for the sale of country liquor;

(*f*) fixing for any local area the minimum price below which any country liquor shall not be sold;

(*g*) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export;

(*h*) for the inspection and supervision of stills, distilleries, private warehouses and breweries;

(*i*) for the management of any public distillery or public warehouse established under section 14;

(*j*) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purposes of this Act;

(*k*) prohibiting the use of any article which the Government shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;

(*l*) for the grant of batta to witnesses, and of compensation for loss of time to persons released by any Abkari officer under section 40 (3) of this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;

(*m*) regulating the power of Abkari officers to summon witnesses from a distance under section 44;

(*n*) for the disposal of articles confiscated and of the proceeds thereof;

(*o*) generally, to carry out the provisions of this Act or of any other law for the time being in force and relating to the Abkari revenue.

VIII.—Powers and Duties of Officers, &c.

Magistrate may issue a search warrant on application.

30. If any Magistrate upon information given by any Abkari or Police officer or any other person, and after such inquiry as he thinks necessary, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Magistrate.

Note.

The procedure prescribed and powers conferred in this chapter for conducting searches and dealing with offences are similar to those contained in Act I of 1852 (The Salt Laws Amendment Act). It enables the preventive officers to discharge with a warning, instead of prosecuting, persons charged with trivial and petty offences—a system which takes much from the rigor of a revenue law. Stringent penalties are provided for vexatious acts by Abkari officers. See secs. 57, 58, 59, 60 and 62.

"Has reason to believe"—A person is said to have reason to believe a thing if he has sufficient cause to believe that thing but not otherwise.—sec. 26 of the Indian Penal Code.

Power to certain Abkari and Police officers to search houses, &c., without warrant.

31. Whenever the Commissioner, or a Collector, or any Abkari or Police officer not below the rank of Sub-Inspector or a Police Station officer, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed and that the delay occasioned by obtaining a search warrant under the preceding section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he think proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act.

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an Abkari Inspector as the case may be.

Note.

Under the Criminal Procedure Code, Act X of 1882 as amended by Act V of 1887, "officer in charge of a Police Station" includes, when the

officer in charge of the Police Station is absent from the station-house or unable from illness to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of Constable, or when the Local Government so directs, any other Police Officer so present.

If sufficient bail has not been tendered by the person arrested as provided for in the last clause of this section, he *shall* be forthwith forwarded to an Abkari Inspector or to the nearest Police-Station, and the officer in charge thereof *shall* either admit him to bail to appear when summoned (*i. e.*, in pursuance of the Procedure under section 48) before the Abkari officer or *shall* forward him in custody to such officer in default of bail.—See sec. 40.

In the case of a person arrested *without warrant* under this section he should not be produced before a Magistrate *direct* without the intervention of an Abkari Inspector. In all cases when a complaint is made to, or a Police charge sheet is laid before, a Magistrate charging any person with an offence under the Abkari Act, the Magistrate can proceed to compel the attendance of the accused by summons or warrant and to dispose of the case.

When the immediate arrest, without warrant, of an offender against the Abkari law appears unnecessary, there is no objection to the Police applying to the Magistrate having jurisdiction for a summons or warrant and the Magistrate disposing of the case without the interposition of the Abkari Inspector.—See also secs. 33, 34, 35, 40, 41, 48, 50, 57, and 58.

Power to enter and inspect places of manufacture and sale.

32. The Commissioner or a Collector, or any Abkari officer not below the rank of Sub-Inspector, or any Police officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, and place in which any licensed manufacturer carrries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor or intoxicating drug or toddy; and may enter and inspect, at any time during which the same may be open, any place in which any liquor or intoxicating drug is kept for sale by any licensed person; and may examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, liquor, or intoxicating drugs found in such place.

In case of resistance, entry may be made by force, &c.

33. If any officer empowered to make an entry under the provisions of the last two preceding sections cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

Offenders may be arrested, and contraband liquor and articles seized, without warrant.

34. Any officer of the Abkari, Salt, Police, Land Revenue or Customs Departments, and any other person duly empowered may arrest without warrant in any public thoroughfare or open place other than a dwelling house any person found committing an offence punishable under section 55 or section 57 or section

58 of this Act; and in any such thoroughfare or place may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, he may have reasonable cause to suspect any liquor, drug or other such article to be, or to be concealed.

Note.

"Drug" used in this section is of course intoxicating drug to which the provisions of this Act apply.

In cases of arrest *without warrant* under this section as well as sections 31 and 35, the intervention of the Abkari Inspector is indispensable. See secs. 31, 35, 40, 41, 50, 57, 58 and 65.

Arrest of persons refusing to give name or giving false name.

35. Any person, who may be accused or reasonably suspected of committing an offence under this Act, and who on demand of any officer of the Abkari, Salt, Police, Land Revenue or Customs Departments or of any other person duly empowered, refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Searches how to be made.

36. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure.

Note.

An Abkari officer suspecting the possession by the accused of liquor without a license, searched the cart in which the accused was travelling and found a bottle of liquor. The trying Magistrate found that the search was not made in the presence of two or more persons, or any list prepared of the things found as required by section 103 C. C. P. extended to Abkari cases by the Abkari Act, and considering that under section 91 of the Indian Evidence Act, oral evidence was inadmissible to prove the search and the finding of liquor, acquitted the accused. The Bombay High Court held on appeal by the Government of Bombay that a cart is not such a "place" as is contemplated by section 103, C. C. P, and that therefore the provision of that section cannot be applied to the search of a cart. (Ruling dated 18th June 1885 *in re* Makan Khosal and others.)

Officers of certain departments bound to assist.

37. All officers of the Departments of Police, Customs, Salt and Land Revenue shall be legally bound to assist any Abkari officer in carrying out the provisions of this Act.

Note.

The expression "legally bound to do" is defined in the Penal Code thus:—"A person is said to be legally bound to do whatever it is illegal in him to omit."

See secs. 39 and 61.

38. Every officer employed by Government, other than an Abkari officer, shall be bound to give immediate information to an Abkari officer,

Offences to be reported, &c.

and every Abkari officer shall be bound to give immediate information either to his immediate official superior or to an Abkari Inspector,

of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

39. All Zemindars, proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be any manufacture of liquor or intoxicating drugs not licensed under this Act shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Abkari, Salt, Police, Customs or Land Revenue Departments immediately the same shall have come to their knowledge.

Landholders and others to give information.

Note.

Imposing such an obligation on the landholders would, it would appear, be virtually constituting them as the unpaid portion of the Abkari detective service. When Act V of 1879 amending Act III of 1864 was passed, a similar provision was sought to be introduced, but Sir William Robinson stated that the Government were unwilling to impose such a legal obligation upon any but Government servants Without the clause which would prevent undue harshness, the section was considered open to serious objection.

Rules for the grant of rewards to informers and others who may render service to Government by detecting or preventing breaches of the Abkari Law.

In any case in which a penalty or confiscation has been adjudged by competent authority under any Law for the time being in force for the administration or protection of the Abkari revenue, the Board of Revenue or the undermentioned officers of the Salt and Abkari Department, may grant in such proportions as they may think fit, to any person or persons who may have contributed to the conviction of the offender or to the seizure of the property so confiscated, a reward not exceeding the proceeds of the liquor confiscated, plus the amount for which any other article confiscated in the same case may sell plus the amount of any fine imposed therein.

I. Provided always that the aggregate amount of the rewards thus granted in any one case shall not exceed :—

	Rs.
If the award be made by the Board of Revenue ...	500
If the award be made by the Commissioner of Salt and Abkari Revenue	200
If the award be made by a Deputy Commissioner of Salt and Abkari Revenue	100
If the award be made by an Assistant Commissioner of Salt and Abkari Revenue	25

II. In any case in which any person or persons may have been convicted of an offence against the Abkari Revenue, but in which no penalty or confiscation may have been imposed or realized, or in which any person has performed any service of special merit in respect of the prevention or detection of any offence against the Abkari laws, rewards may be granted as follows :—

	Rs.
By the Board of Revenue to an aggregate amount not exceeding...	200
By the Commissioner of Salt and Abkari Revenue to an aggregate amount not exceeding ...	50
By a Deputy Commissioner of Salt and Abkari Revenue to an agregate amount not exceeding...	25
By an Assistant Commissioner of Salt and Abkari Revenue to an aggregate amount not exceeding...	10

III. The Commissioner of Salt and Abkari Revenue or a Deputy Commissioner with the sanction of the Commissioner may incur, at his discretion an expenditure not exceeding Rs. 100 in each case for the employment of informers or for any other purpose connected with the prevention or detection of any offence against the Laws relating to Abkari Revenue.

IV. Proposed rewards and expenditure exceeding the sums above set forth should be reported for the previous sanction of Government (see G. O, No. 428, dated the 4th June 1886.)

Persons arrested, how to be dealt with.

40. (1) When any person is arrested under the provisions of section 31 or section 34 or section 35 of this Act, the person arresting him shall, unless bail shall have been accepted under the provisions of section 31, forthwith forward him to an Abkari Inspector, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest Police station, with a report of the circumstances under which such arrest was made.

Procedure by Police Station officer.

(2) On any such person being brought to a Police station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned before the Abkari officer as aforesaid within the limits of whose jurisdiction the offence with which he is charged is suspected to have been committed, or in default of bail, shall forward him in custody to such officer.

Procedure by Abkari officer empowered to inquire.

(3) On any such person being brought in custody before such Abkari officer as aforesaid or appearing before him on bail, such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to try the case.

Persons arrested to be admitted to bail.

41. It shall be the duty of any officer arresting any person under the powers given by section 31 of this Act, and of any Police Station officer, or Abkari officer before

whom a person arrested is brought or appears under the provisions of section 40 to release such person on bail if sufficient bail be tendered for his appearance before an Abkari Inspector or before a Magistrate as the case may be.

Bond of accused and sureties.

42. Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Abkari Inspector before whom he was bailed to attend, or by the Magistrate, as the case may be.

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

The Governor in Council shall from time to time determine the form of the bond to be used in any local area.

Note.

Section 498 of the Code of Criminal Procedure provides that the amount of a bail bond shall be fixed with due regard to the circumstances of the case and shall not be excessive.

The Commissioner of Salt and Abkari Revenue in his instructions for the guidance of the Department has laid down that usually with such poor persons as are the mass of those who commit offences against the Abkari law, Rs. 10 will be a sufficient sum to insert in the bail bond. See Commissioner's Circular X of 1886.

The proviso to this section differs from the provisions of the Salt Act, inasmuch as in Salt cases accused persons cannot be released upon their own recognizances.

Procedure in case of default of person admitted to bail to appear before Abkari Inspector.

43. When by reason of default of appearance of a person bailed to appear before an Abkari Inspector such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

Note.

Section 514 of the Code of Criminal Procedure regarding the forfeiture of bail bonds is extracted below.

Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class, or, when the bond is for appearance before a Court, to the satisfaction of such Court, that such bond has been forfeited,

the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid. If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person. Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it ; and it shall authorize the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found. If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the Civil jail for a term which may extend to six months. The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

Abkari officers may summon witnesses.

44. Any Abkari officer holding an inquiry in the manner provided in section 40 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevent thereto which may be in his possession or under his control.

Provided that no such Abkari officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the Governor in Council may from time to time by rule direct.

Note.

No Abkari officer shall summon any person as a witness under this section at a greater distance than 40 miles from the usual place of residence of such person. In connection with an analogous provision in the Bombay Salt Act, the Bombay High Court ruled that the distance is to be measured in a straight line " as the Crow flies" i. e., along the horizontal plane and not by the nearest mode of practical access. (Ruling dated 20th February 1879).

The Salt Act has also a distinct provision that any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced instead of attending personally to produce the same. This provision is rendered unnecessary in this Act by section 49.

Terms of summons.

45. Every summons issued under the last preceding section shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

Note.

It is incumbent upon the Officer issuing a summons to specify the place at which the person summoned is required to attend. Madras High Court Proceedings, dated 20th December 1872 and 30th November 1874.

To constitute the offence of disobedience to a summons under section 174 I.P.C. the summons must specify the place at which attendance is required. Madras High Court Proceedings, dated 25th December 1872 and 9th December 1876.

46. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced into writing and shall be signed by such officer.

Examination of witnesses by Abkari Inspectors.

Note.

The provisions of section 46 correspond substantially with those of section 161 of the Code of Criminal Procedure which authorises a Police officer making an investigation under Chapter XIV to examine persons acquainted with the facts and circumstances of the case. And the Calcutta High Court has held that a witness who makes a false statement to a Police officer under section 161 C. C. P., would be guilty of giving false evidence.—I. L. R., 10 Calc. 405. See also I. L R., 8 Bom. 216.

47. It shall be lawful for an Abkari Inspector, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry; and such person hall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

When attendance of witnesses to be dispensed with, and procedure in such cases.

Note.

This is substantially a reproduction of the provisions of section 16 of the Salt Amendment Act I of 1882, now repealed by Act No. IV of 1889.

48. Any Abkari Inspector may, after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 40 to 47 inclusive of the Act shall become applicable.

Abkari Inspector may summon persons suspected of offences against Abkari-laws.

49. The law for the time being in force as to summonses and compelling the attendance of persons summoned in Criminal Courts shall, so far as the same may be applicable, apply to any summons issued by an Abkari Inspector and to any person summoned by him to appear under the provisions of this Act.

Law relating to Criminal Courts as to summoning of witnesses to apply.

Note.

Sections 68 to 71 and 94 of the Code of Criminal Procedure regarding summonses are extracted below.

Sec. 68. Every summons issued by a Court under this Code shall be in writing in duplicate signed and sealed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule, direct.

Such summons shall be served by a Police officer; * or, subject to such rules consistent with this Code as the Local Government may prescribe in this behalf, by an officer of the Court issuing it.

* Summonses issued by an Abkari Inspector under this Act should be served by men of his Department.

This section applies to the Police in the towns of Calcutta and Bombay.

Sec. 69. The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons. Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Sec. 70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a Presidency town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Sec. 71. If the signature mentioned in sections 69 and 70 cannot by the exercise of due diligence be obtained, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Sec. 94. Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a Police station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it or to produce it at the time and place stated in the summons or order.

Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, post-card, telegram or other document in the custody of the Postal or Telegraph authorities.

Report of Abkari Inspector gives jurisdiction to a competent Magistrate.

50. When an Abkari Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

Note.

This section does not operate to deprive a Magistrate of jurisdiction over offences under the Abkari Act, except upon the report of an Abkari Inspector. The effect of this section appears to be to add to the alternative conditions requisite for initiation of proceedings as specified in section 191

of the Code of Criminal Procedure, information laid by an Abkari Inspector by means of a report. It is of course beyond the power of the Local Legislature to oust the jurisdiction of the Magistracy when the Code of Criminal Procedure authorises them to take cognizance of an offence otherwise than on the report of an Abkari Inspector. It is only in cases of arrest *without warrant* under sections 31, 34, and 35 that the intervention of an Abkari Inspector is necessary.

The term "complaint" means the allegation made orally or in writing to a Magistrate with a view to his taking action under this Code, that some person whether known or unknown has committed an offence, but does not include the "report of a police officer."—Criminal Pro. Code, sec. 4 (*a*).

See also secs. 31, 34 and 40.

Powers of Abkarry Inspector to cause attendance of witnesses before Magistrate.

51. When an Abkari Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate such officer shall exercise all the powers conferred by the Code of Criminal Procedure on an officer in charge of a Police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

Note.

When the officer in charge of a Police Station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-Divisional Magistrate be mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference be given to such complainant or persons.

The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be farwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.—Sec. 170, Criminal Procedure Code.

No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police Officer, or shall be subjected to unnecessary restraint or inconvenience or required to give any security for his appearance other than his own bond :

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the Police Station may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.—Sec. 171, Criminal Procedure Code.

Accused not to be detained in custody for a longer period than twenty-four hours without special authority.

52. No person accused or suspected of having committed an office under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where an Abkari Inspector may be, and from thence to the Court having jurisdiction to try the case.

Note.

This section corresponds essentially with the provisions of sec. 61 of the Code of Criminal Procedure.

As to what constitutes a detention by the Police, the Calcutta High Court in the case of Behari Singh and others (7 W. R., 3) held that if as is frequently the case, a Police Officer without arresting a person himself directs some of the neighbours to take charge of him, he is responsible in the same way as if he had himself made the arrest, the person arrested being in law in his custody.

In the case of Puran Kusan Narasaya Pantulu *vs* Captain R. A. C. Stuart (2 Mad. 396) the Madras High Court held that the requiring of the attendance of a certain person by letter and the deputing of two constables to accompany him under the allegation that their duties were to prevent him from speaking to any one, amounts to an arrest and confinement.

The Calcutta High Court also held that a Police Officer is not empowered to detain without question an accused person for a period not exceeding 24 hours and that he is in no case justified in detaining a person for one single hour, except on some reasonable grounds warranted by the circumstances of the case.—Sheoprosunno Ghosal, 6 W. R., 88.

Under no circumstances can an accused person be detained for more than 24 hours without the special order of a Magistrate; and unless that special order be obtained, he *must* at the expiration of that period be either sent in to the Magistrate or be bailed, any further detention being unlawful. Detention through the exercise of moral force without the accompaniment of physical force or actual conflict is sufficient to constitute the offence of wrongful confinement. Madras High Court Proceedings No. 385 of 1881.

Police to take charge of articles seized.

53. All officers in charge of Police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of an Abkari Inspector all articles seized under this Act which may be delivered to them; and shall allow any Abkari officer who may accompany such articles to the Police Station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the Police Station.

Note.

"Police Station" means any post declared, generally or specially, by the Local Government, to be a Police Station for the purposes of this Code, and includes any local area specified by the Local Government in this behalf; and "officer in charge of a Police Station" includes, when the officer in charge of the Police Station is absent from the station house or unable from illness to perform his duties, the Police officer present at the station house who is next in rank to such officer and is above the rank of constable, or, when the Local Government so directs, any other Police officer so present—Section 4 (o) of the Code of Criminal Procedure, Act X of 1882, as amended by Act V of 1887.

The following instructions have been issued by the Commissioner of Salt and Abkari Revenue for the guidance of Abkari officers :—

When liquor is handed over to the Police, the officer handing the same over should take 3 samples of not less than one reputed pint or such smaller quantity as may be available of each kind of liquor so handed over, if there be more than one kind, in the presence of the Station House Officer, of the accused and of the witnesses to the seizure. Each set of 3 samples should then be marked with the same number or mark, the particulars of which should be entered in the appropriate column of Form P-6 and in the Occurrence Report P-I. of the case. All samples should then be sealed by the Station House Officer and by the senior officer of the Abkari Department present. One sample of each set should then be left with the Station House Officer and the other two be sent to the officer in charge of the circle with the occurrence report of the case. One of the two samples will then be available for the use of the officer in charge of the circle while inquiring into the case, and the other for the Magistrate's inspection, if the case is prosecuted before a Magistrate.

When seizure is made by an officer in charge of a circle in person, he may either depute one of his subordinate officials present at the seizure to take the liquor to the station and to receive the samples, or he may himself on the spot take out and seal the samples and the rest of the seized liquor with his own seal. He may then either take the articles seized with him to deposit where he considers it will be safest, or send them for deposit to the nearest or most accessible Police station to be kept as in the previous case till further orders. If, however, the officer in charge of the circle himself seals the liquor, he must, in the event of the identity of the liquor duced in Court being denied by the accused be prepared to attend and prove the same in person. The same procedure as nearly as may be is to be followed when a superior officer goes or sends to a Police station for samples. They will be forwarded with an occurrence report P-I. which the station house officer is to be requested to countersign.—Commissioner's Circular Order X of 1886.

Closing of shop for the sake of public peace.

54. It shall be lawful for the Magistrate of the District or, in the town of Madras, for the Commissioner of Police by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any Police

officer who is present, to require such shop to be kept closed for such period as may be necessary.

Note.

The power given to the District Magistrate by the first clause of this section is exercised by the *collector* under the Bombay Abkari Act V of 1878. In the town of Madras, the Commissioner of Police takes the place of a District Magistrate in the moussil.

According to the Indian Penal Code, an assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is :—

First —To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency or any Lieutenant Governor, or any public servant in the exercise of the lawful powers of such public servant ; or

Second.—To resist the execution of any law, or of any legal process ; or

Third.—To commit any mischief or criminal trespass or other offence ; or

Fourth.—By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right ; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

EXPLANATION—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.—Sec. 141, I. P. C.

Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting—Indian Penal Code, sec. 146,

IX.—PENALTIES.

55. Whoever, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act,

For illegal import, &c.

(*a*) imports, exports, transports or possesses liquor or any intoxicating drug ; or

(*b*) manufactures liquor or any intoxicating drug ; or

(*c*) cultivates the hemp plant (*Cannabis Sativa* or *Indica*) ; or

(*d*) taps any toddy-producing tree ; or

(*e*) draws toddy from any tree ; or

(*f*) constructs or works any distillery or brewery ; or

(*g*) uses, keeps, or has in his possession any materials, still, untensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug ; or

(*h*) sells liquor or any intoxicating drug

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Note.

A licensee was convicted of carrying toddy as he had not got in actual possession his license when he was stopped by the Abkari Officer. The Madras High Court quashed the conviction, holding that it was not required by the Act that the person having a license should have it in his person when carrying toddy under his license.—Madras High Court Proceedings in Criminal Revision case No. 650 of 1886, dated 1st March 1887.

The Madras High Court set aside the conviction of a person who drew toddy under the authority of a license granted to his brother. The High Court held that license issued to the brother of the accused was sufficient authority for the accused drawing toddy, as the agent for and under the authority of the licensee. The intention of the legislature was to prohibit the drawing of toddy without a license, but clearly not to prevent the delegation of the actual work to the servant or agent as appears from the provisions of section 64 read in connection with section 55 and other sections therein referred to.—Pro., Madr. H. C., 10th December 1886.

In Criminal Revision Case No. 339 of 1886, referred by the District Magistrate of South Canara, the High Court of Madras made the following *order* :—There is no finding that the liquor found in the possession of the accused exceeded in quantity one Imperial quart and accepting the District Magistrate's statement that there is no evidence that the quantity so found was in excess of one Imperial quart, the conviction must be and it is quashed, and the fine if levied must be refunded.—Proceedings of the Madras High Court, dated the 15th September 1886.

In Criminal Revision Case No. 20 of 1887, referred by the District Magistrate of Ganjam, the High Court made the following *order* :—The accused has been convicted of being in possession of a goat skin which the District Magistrate describes as "a bellows," but the Subordinate Magistrate calls a goat skin "tied up in a bundle and used for conveyance," which smelt of arrack; it was found in the accused's house. Assuming that the skin did smell of arrack and that it was used for conveyance of liquor of which apparently there is no proof, possession of a skin for such purpose is not an offence under section 55 of the Act. Clause (*a*) makes the transfer or possession of liquor in contravention of the Act punishable, but it is not pretended that such transfer, conveyance or possession was proved, and clause (*g*) makes possession of materials &c., for the manufacture of illicit liquor punishable, but it is not found that the skin or pot or cocoanut was kept for the purpose of manufacture. The prosecution in this case was altogether unjustifiable, The conviction must be set aside and the fine, if levied, refunded.—Proceedings of the Madras High Court, dated the 8th March 1887.

In Criminal Revision Cases Nos. 408, 409 and 410 of 1886, referred by the District Magistrate, Kistna, the High Court delivered the following *judgment* :—Three persons were convicted by a Subordinate Magistrate of having transported liquor without a license, an offence punishable under sec. 55 of Act I of 1886. They were coolies employed by the sub-renter of the Peddapulivaru toddy farm, and were arrested on their way to the sub-renter's shop in that village, as they were passing through a portion of another form under another sub renter. The District Magistrate refers the cases as he "doubts the correctness of the conviction" but he does not state on what grounds he entertains doubt. The accused not having a permit to convey toddy beyond the limits of their employer's sub-farm, it does not appear how the conviction can be bad in law. The Sub-

Magistrate had regard to the very venial nature of the breach of the Abkari law and we see no reason to interfere.—Proceedings of the Madras High Court, dated the 20th April 1887.

For misconduct by licensee, &c.

56. Whoever, being the holder of a license or permit granted under this Act,

(*a*) fails to produce such license or permit on the demand of any Abkari officer or of any other officer duly empowered to make such demand ; or

(*b*) does any act in breach of any of the conditions of his license or permit not otherwise provided for in this Act ; or

(*c*) wilfully contravenes any Rule made under sec. 29 of this Act ; or

(*d*) permits drunkenness, riot or gaming in any place in which any liquor or intoxicating drug is sold or manufactured ; or

(*e*) permits persons of notoriously bad character to meet or remain in any such place,

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months, or with both.

Note.

See secs. 29, 64 and 67. Arrests without warrant cannot be made in the case of infringement of this section, see sec. 34 ; the procedure must therefore be by summons under sec. 48.

In *Imperatrix vs Nana Mahader*, the accused, a licensee for selling *bhang* and *ganja* under the Bombay Abkari Act, was convicted under section 45 (*c*) of the Act (corresponding to sec. 56 (*b*) of this Act) of a breach of his license, by omitting to open shops at certain places and to keep accounts. The Bombay High Court held that neither omission was an "act" in breach of any condition of his license, section 33 of the Indian Penal Code having no application to the case, and that the accused was wrongly convicted. (Ruling dated 11th March 1886). Such a case seems to be sufficiently provided for by section 63 of this Act.

In Criminal Revision Cases Nos. 310 and 311 of 1886, referred by the Acting District Magistrate of Tinnevelly, the High Court of Madras delivered the following *judgment* :—In No. 310 :—In the first case the conviction must be, and it is, set aside on the ground that, as the District Magistrate states, there is no evidence that the accused held a license under which he bound himself not to offer for sale liquor under a certain strength, while the accused distinctly said he had no license for the year ; nor can a conviction be supported for having in possession liquor in excess of a quantity allowed by notification, because there is nothing on record to show what the quantity allowed is, or that the liquor tested in this case exceeded such quantity. In No. 311 :—The accused was charged with a similar offence, but it does not appear that he denied holding a license in which such condition is inserted, and the District Magistrate appears to be incorrect in saying that there is no evidence that the liquor was kept for sale. No presumption arises that the liquor was not kept for sale because it was concealed, and the Sub-Magistrate's judgment shows that the accused admitted that he kept " this liquor also", *i. e.*, the liquor in the bottle, for sale. There is no reason to reverse the conviction in this case. There is

evidence that on testing, the liquor was found to be below strength, and the sufficiency of that evidence is no matter for determination in revision. —Proceedings of the Madras High Court, dated the 11th August 1886.

In Criminal Revision Case No. 470 of 1886, the Madras High Court ruled that failure to give a permit for liqour does not constitute an offence under section 56 of the Abkari Act.—Proceeding of the Madras High Court, dated the 1st September 1886.

In Criminal Revision Case No. 639 of 1886, referred by the Acting District Magistrate of Tinnevelly, the Madras High Court observed that section 56 and section 64 of the Abkari Act must be read together, adding that, if, as suggested by the District Magistrate, no offence could be committed under section 56 but by the holder of the license, the words "for any offence committed by any person in his employ and acting on his behalf under section 56" would be meaningless. The words "being the holder of a license" in section 55 must be taken to include any person in his employ and acting on his behalf for the time being.—Proceedings of the Madras High Court, dated the 29th October 1886.

For adulteration, &c., by licensed vendor or manufacturer.

57. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under section 29, clause (*k*), when such admixture shall not amount to the offence of adulteration under section two hundred and seventy-two of the Indian Penal Code ; or

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor ; or

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section four hundred and eighty-two of the Indian Penal Code ; or

(*d*) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other

receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section four hundred and eighty-six of the Indian Penal Code,

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Note.

See secs. 30, 31 and 34.

See sections 272, 482 and 486 of the Indian Penal Code.

58. Whoever without lawful authority has in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

For possession of illicit liquor.

59. Any Abkari officer or other person who, without reasonable ground of suspicion, enters, or searches, or causes to be searched, any closed place ;

For vexatious search or arrest.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ;

or vexatiously and unnecessarily detains, searches, or arrests any person ;

or in any other way vexatiously exceeds his lawful powers ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Note.—As to things liable to confiscation under the Act, see sec. 65.

60. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an Abkari Inspector or to the officer in charge of the nearest Police station as required by section 40 of this Act, any person arrested, or any articles seized under this Act, shall, on conviction before a Magistrate, be punished with fine which may extend to two hundred rupees.

For vexatious delay.

61. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or,

For abetment of escape of persons arrested, &c.

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkari revenue may be defrauded,

and any officer of any other department referred to in section 37 who abets the commission of any offence against this Act in any place,

shall, on conviction before a Magistrate for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Note.

As to the definition of abetment, see sec. 107 of the Indian Penal Code.

62. Any Abkari officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so; or

For Abkari officer refusing to do duty, using violence, or being guilty of cowardice.

who shall offer any unwarrantable violence to any person in his custody; or who shall be guilty of cowardice,

shall, on conviction before a Magistrate, be punished with fine which may extend to six months' pay, or with imprisonment which may extend to three months, or with both.

63. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act,

For offences not otherwise provided for.

shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

64. In prosecutions under section 55 it shall be presumed, until the contrary is proved, that the accused person has committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement, or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily

Presumption as to commission of offence in certain cases.

and the holder of a license or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under section 55 or section 56 or section 57 or section 58 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

Note.

Against the provision made in this section it was urged that the first part of the section was opposed to the elementary rule of law that every person must be presumed to be innocent until proved to be guilty Further, section 114 of the Indian Evidence Act, gives large powers to Courts to draw presumptions in certain cases, and it was unnecessary to introduce any new rule. The Evidence Act, it was contended, contained provisions enabling the Magistrate to raise presumptions against the accused from circumstances not satisfactorily explained by him That Act only enacts that the Magistrate *may* presume, leaving the Magistrate to use his discretion ; while this section leaves no discretion to the Magistrate, but makes it obligatory on him to presume absolutely. The Magistrate *shall* presume and the Magistrate *may* presume are two quite different things.

As to the meaning of the expression *shall presume* the Evidence Act I of 1872, defines thus:—"Whenever it is directed by this Act that the Court *shall presume* a fact, it shall regard such fact as proved, and unless until it is disproved."

As to presumption under the Salt Act, see Madras Act IV of 1889, s. 83.

What things liable to confiscation.

65. In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect of which an offence has been committed shall be liable to confiscation.

Any liquor or intoxcating drug lawfully imported, exported, transported, manufactured, had in possession or sold or toddy lawfully drawn or tapped along with, or in addition to, any liquor, intoxicating drug or toddy, liable to confiscation under this section, and

the receptacles, packges and coverings in which any such liquor, intoxicating drug, materials, still, untensil, implement, or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, or other conveyances used in carrying the same,

shall likewise be liable to confiscation.

Note.

By " drug" in the first clause of this section is of course meant "intoxicating drug" of which the Act treats throughout.

The pre-requisite of an order under this section is the Commission of an offence in respect of the things specified and not necessarily the con-

viction of any person charged with the commission of that offence. See also sections 59, 66 and 67.

In Criminal Revision Cases Nos. 520, 525 and 529, the Madras High Court held that the grain taken in barter for liquor sold cannot be confiscated.—Proceedings of the High Court, dated the 15th September 1886.

Section 65 authorises confiscation of liquor, &c, in respect of which an offence has been committed against the Act. The order to sell by auction is unauthorized—Proceedings of the Madras High Court, dated the 24th November 1886.

See also sections 31 and 34 regarding the seizure of articles liable to confiscation.

Confiscation how ordered.

66. When the offender is convicted or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the Magistrate.

Whenever confiscation is authorized by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Commissioner, or by any other officer authorized by the Governor in Council in that behalf, who may order such confiscation.

Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.

Note

The Commissioner of Salt and Abkari Revenue authorises all officers of the Department of Salt and Abkari Revenue of the Grades specified below to inquire into and determine cases of confiscation falling under clause 3, section 66 of the Madras Abkari Act, 1886, and to order confiscation subject to the limitation imposed in each case and to appeal to their respective immediate superiors within two months.

Officers in charge of Circles.—In cases in which the value of the articles liable to confiscation does not exceed Rs. 50.

Assistant Commissioners.—In cases in which such value does not exceed Rs. 200.

Deputy Commissioners—Without limit as to value.

A copy of every decision by Abkari officers under the section should be forwarded to the Commissioner.—Commissioner's Proceedings, No. 7535 dated 11th June 1886.

In cases in which it is decided to prosecute, the Magistrate must adjudicate confiscation. In cases in which the offender is known but is released with a warning, confiscation cannot be ordered. Cases will be rare in which it is advisable to order confiscation but not to prosecute the offender.

In regard to the disposal of confiscated articles, the commissioner of Salt and Abkari Revenue has issued the subjoined subsidiary orders to his Department. Liquor confiscated under the Act can only be sold to persons licensed to sell the particular description of liquor in question, that is, in the case of foreign liquor, to whole sale or retail vendors or tavern keepers, and in the case of country liquor, to wholesale vendors, independent shopkeepers or arrack vend farmers. It must not be disposed of to the shopkeepers of the last mentioned class without their consent. Confiscated liquor should be sold by auction, if possible, the upset price being the duty leviable thereon ; when an auction cannot be arranged, it may be disposed of for any price in excess of the duty.—Commissioner's Circular X of 1886.

Power to compound offences.

67. Any Abkari officer specially empowered in that behalf may accept from any person whose license or permit is liable to be cancelled or suspended under clauses (*a*) and (*b*) of section 26 or who is reasonably suspected of having committed an offence under section 56 or section 63, a sum of money not exceeding two hundred rupees in lieu of such cancelment or suspension or by way of compensation for the offence which may have been committed as the case may be ; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Note.

Under this section the Governor in Council has empowered the Commissioner, all Collectors, all sub-Collectors, all principal, Senior, Special and Head Assistant Collectors, all Assistant and Deputy Collectors and all officers of the Department of Salt and Abkari Revenue not below the rank of Assistant Commissioner, to exercise the powers conferred by this section. —See Government Notification No. 75 dated 17th March 1886.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

68. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.

Note.

The Provisions of the Criminal Procedure Code and of the Indian Penal Code referred to in this section are extracted below :—

CRIMINAL PROCEDURE CODE.

"Sec 383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381 the Court passing the sentence shall forthwith forward a warrant to the jail in which he is to be confined, and unless the accused is already confined in such jail, shall forward him to such jail with the warrant.

"Sec. 384. Every warrant for the execution of sentence of imprisonment, shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

"Sec. 385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

"Sec. 386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

"Sec. 387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

"Sec. 388. When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the Court issues a warrant under sec. 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized, the Court may direct the sentence of imprisonment to be carried into execution at once.

"Sec. 389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor in office.

* * * *

"Sec. 397. When a person already under going a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:—

* * * *

"Sec. 400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed."

INDIAN PENAL CODE.

"Sec. 67. If the offence be punishable with fine only the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed Rs. 50, and for any term not exceeding four months when the amount shall not exceed Rs. 100, and for any term not exceeding six months in any other case.—Act VIII of 1882, Section 3.

"Sec 68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

"Sec. 96. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the

term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate."

X.—MISCELLANEOUS.

69. All Rules made and Notifications issued under this Act shall be made and issued by publication in the *Fort St. George Gazette*, provided that all such Rules and Notifications whereby the doing or the not doing of anything is made punishable shall be published in three successive issues of the *Fort Saint George Gazette* and for at least two months in the Official Gazettes of the districts to which, or to parts of or to places in which, it may be determined that they shall apply. All such Rules and Notifications shall thereupon have the force of law and be read as part of this Act and may in like manner be varied, suspended or annulled.

Publication of Rules and Notifications.

Note.

It is only the Rules and Notifications whereby the doing or the not doing of anything is *made punishable* that have to be published in three successive issues of the *Fort St. George Gazette* and for at least two months in District Gazettes. This may appear to be too plain to require comment; but as a matter of fact there was a widespread impression that even the Notification issued by Government under section 1 that the Act would come into force on the 17th February 1886, would have effect only after it had been published for at least two months in the Official Gazette of the several Districts.

70. All Notifications and orders conferring powers, imposing duties and making appointments under this Act may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles; and all Courts shall take judicial notice thereof.

The conferring of powers and making of appointments.

Note.

Section 56 of the Indian Evidence Act provides that "no fact of which the Court will take judicial notice need be proved."

71. Nothing in the foregoing provisions of this Act applies to the manufacture, possession, sale or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for the Governor in Council at any time by Notification to prohibit the sale of any such article within any defined local area except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as the Governor in Council may deem fit to prescribe.

Exception of medicated articles.

Note.

Sec. 27 of Act III of 1864 (Madras) also excepted the manufacture, sale or supply of articles for medicinal purposes by recognized medical practitioners, chemists or druggists.

Bar of actions.

72. No action shall lie against the Secretary of State for India in Council, or against any Abkari officer, for damages in any Civil Court for any act *bonâ fide* done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to Abkari Revenue ;

and all prosecutions of any Abkari officer, and all actions which may be lawfully brought against the Secretary of State for India in Council or against any Abkari officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

In such action if for damages, it shall be lawful for the Court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered to refuse costs to the plaintiff and direct him to pay the costs of the defendant.

Note.

No suit shall be instituted against the Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff ; and the plaint must contain a statement that such notice has been so delivered or left.—See sec. 424 of Civil Procedure Code.

SCHEDULE.

(*See Section 2.*)

Enactment.	Subject.	Extent of Repeal.
Act XIX of 1852 ...	For better securing the Abkari revenue of the town and suburbs of Madras.	The whole, so far as it has not already been repealed.
Act III of 1856 ...	An Act to amend Act XIX of 1852.	The whole.
Act III of 1864 (Madras) ...	An Act for amending the Abkari laws of the Madras Presidency beyond the limits of the Madras Abkari as prescribed by Act XIX of 1852.	The whole, so far as it has not already been repealed.
Act V of 1879 (Madras) ...	The Madras Abkari Laws Amendment Act, 1879.	The whole.

MADRAS GENERAL CLAUSES.

M. ACT NO. I. OF 1867.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

An Act to shorten the language used in Acts of the Governor of Fort Saint George in Council, and to make certain provisions relating thereto.

Preamble.

WHEREAS it is expedient to enact once for all certain definitions of terms usually employed in the Acts of the Governor of Fort Saint George in Council, and to make certain other provisions regarding such Acts ; It is enacted as follows :—

Words defined in Penal and Criminal Procedure Codes to be taken in the same sense.

1. Whenever in any future Act of the Governor of Fort St. George in Council, any word or expression shall be employed which has been defined in Chapter II of the Indian Penal Code, or in Chapter I of the Code of Criminal Procedure, such word or expression shall be taken to have the meaning assigned to it in those Chapters, unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction.

"Magistrate of Police."

2. *First.*—The words "Magistrate of Police" shall denote any person exercising the powers of a Magistrate of Police, within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras for the time being.

"Town of Madras."

Second.—The words "Town of Madras" shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Repeal of any Act not to revive laws repealed by such Act.

3. Where any Act repealing in whole, or in part, any former enactment is itself repealed, such last repeal shall not revive the enactment, or any of the provisions thereof before repealed, unless words be added reviving such enactment or provisions.

Matters done under Act before its repeal to be unaffected.

4. The repeal of any Act or Regulation shall not affect any act which shall have been done, or any offence which shall have been committed, or any fine or penalty which shall have been incurred, or

any proceedings which shall have been commenced, before the repealing Act shall have come into operation.

Acts to come into operation from date notified in *Gazette*.

5. Where in any future Act of the Governor of Fort Saint George in Council no time is mentioned at which the same shall come into operation, such Act shall take effect from such date as the Governor in Council may notify by publication in the *Fort St. George Gazette*.

6 & 7. [*Repealed by Act XVI. of* 1874.]

Short title.

8. This Act may be cited for all purposes as "The Madras General Clauses' Act, 1867."

M. ACT NO. I. OF 1891.

PASSED ON THE 14TH MAY 1891.

An Act for further shortening the language used in Acts of the Governor of Fort St. George in Council and for other purposes.

WHEREAS it is expedient to further shorten the language used in Acts made by the Governor of Fort St. George in Council and to make certain further provisions relating to those Acts ; It is hereby enacted as follows :—

Short title.

1. (*a*) This Act may be called the "Madras General Clauses Act, 1891"; and

Commencement.

(*b*) It shall come into force on the first day of January 1892.

Saving clause.

2. Notwithstanding anything contained in the Madras General Clauses Act, 1867, provisions of that Act shall not apply to this Act or to any Act of the Governor of Fort St. George in Council which may be passed subsequent to the commencement of this Act.

CHAPTER I.

DEFINITIONS.

Definitions.

3. In this Act and in every Act made by the Governor of Fort St. George in Council after the commencement of this Act unless there be something repugnant in the subject or context—

(1) "Abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code.

Abet.

(2) "Barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland.

Barrister.

(3) "British India" shall mean all territories and places within Her Majesty's dominions which are, for the time being, governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India.

British India.

(4) "Chapter," "part," "section," and "schedule," shall mean respectively a chapter, part and section of, and schedule to, the Act in which the word occurs.

Chapter, part, section, and schedule.

(5) "City of Madras" shall mean such local area as is declared from time to time to be the City of Madras under any Act for the time being in force relating to the Municipal affairs of such City.

City of Madras.

(6) "Collector" shall include every officer who, for the time being, is authorized to exercise the powers of a Collector.

Collector.

(7) "Commencement," used with reference to an Act, shall mean the time at which the Act comes into force.

Commencement.

(8) "District Collector" shall mean the chief local officer in charge of the Revenue administration of a district.

District Collector.

(9) "Document" shall mean any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Document.

(10) "Financial year" shall mean the year commencing on the 1st day of April.

Financial year.

(11) Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

Good faith.

(12) "Government" shall mean the Governor of Fort St. George in Council.

Government.

(13) "Her Majesty," shall include Her heirs and successors to the Crown.

Her Majesty.

Immoveable property.

(14) "Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.

Imprisonment.

(15) "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code.

Judicial proceeding.

(16) "Judicial proceeding" shall mean any proceeding in the course of which evidence is, or may be, legally taken.

Local authority.

(17) "Local authority" shall mean 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.

Magistrate.

(18) "Magistrate" shall mean any person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1882.

Moveable property.

(19) "Moveable property" shall mean property of every description except immoveable property.

Oath, swear and affidavit.

(20) "Oath," "swear" and "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.

Offence.

(21) "Offence" shall mean any act or omission made punishable by any law for the time being in force.

Person.

(22) "Person" shall include any company or association of individuals, whether incorporated or not.

Place.

(23) "Place" includes also a house, building tent and vessel.

Presidency of Madras.

(24) "Presidency of Madras" shall mean the territories within British India for the time being under the administration of the Governor of Fort St. George in Council.

Presidency town.

(25) "Presidency town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Public.

(26) "Public" includes any class of the public or any community.

Public nuisance.

(27) "Public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code.

Registered. (28) "Registered" shall mean registered in British India under the law for the time being in force for the registration of documents.

Sign. (29) "Sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions.

Son and father. (30) In the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father.

Sub-section. (31) "Sub-section" shall mean a sub-section of the section in which the word occurs.

Value. (32) "Value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit, computed according to the law for the time being in force regulating the valuation of suits for purposes of jurisdiction.

Will. (33) "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property.

Gender. (34) Words importing the masculine gender shall include females.

Number. (35) Words in the singular shall include the plural, and words in the plural shall include the singular.

Illegal omissions. (36) Words which refer to act done extend also to illegal omissions.

Writing. (37) "Writing" with its grammatical variations and cognate expressions, shall including "Printing," "Lithography," "Photography," with their grammatical variations and cognate expressions and other modes of representing or reproducing words in a visible form.

Year and Month. (38) "Year" and "Month" shall, respectively, mean a year and month reckoned according to the British Calendar.

CHAPTER II.

General Provisions applicable to future Acts.

Application of chapter II to all future Acts. 4. This chapter shall apply to all Acts made by the Governor of Fort St. George in Council after the commencement of this Act, unless a contrary intention appears in such Acts.

Commencement of future Acts. 5. Every Act to which this chapter applies and in which no time is mentioned or provision made for its commencement, shall come into force upon the first publica

tion, made in pursuance of section 40 of the Indian Councils Act, 1861, by the Governor of Fort St. George, of the assent thereto of the Governor-General of India; and in every such Act, the date of such first publication shall be printed either above or below the title of the Act and shall from part of every such Act.

Making of rules and issue of orders between passing and commencement of Act.

6. Where, by an Act to which this chapter applies and which is not to come into force immediately on the passing thereof, a power is conferred on Government or other authority to make rules, or to issue orders, with respect to the application of the Act, or with respect to the appointment of any officer thereunder, such power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

Provisions regulating making of rules after previous publication.

7. Where, by an Act to which this chapter applies, a power to make rules is expressed to be given, subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely—

Publication of draft rules.

(*a*) The authority having the power to make the rules shall, before making them, publish a draft of the proposed rules.

Manner of publication.

(*b*) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Government prescribes.

Notice to Accompany draft rules.

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

Consideration of suggestions in regard to draft rules.

(*d*) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft, before the date so specified.

Publication to be proof of due making of rules.

(*e*) The publication in the *Fort St. George Gazette* of a rule purporting to have been made in exercise of a power to make rules after previous publication, shall be conclusive proof that the rule has been duly made.

Effect of repealing an Act.

8. Where any Act, to which this chapter applies, repeals any other enactment, then the repeal shall not—

(*a*) affect anything done or any offence committed, or any fine or penalty incurred or any proceedings begun before the commencement of the repealing Act; or,

(*b*) revive anything not in force or existing at the time at which the repeal takes effect; or,

(*c*) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or,

(*d*) affect any right, privilege, obligation, or liability, acquired, accrued, or incurred under any enactment so repealed; or,

(*e*) affect any fine, penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or,

(*f*) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such fine, penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

9. In any Act to which this chapter applies—

Revival of repealed enactments.

(*a*) for the purpose of reviving either wholly or partially an Act or Regulation, wholly or partially repealed, it shall be necessary expressly to state such purpose;

Commencement of term.

(*b*) for the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from";

Termination of term.

(*c*) for the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to";

Application to subordinates of law relative to official superiors.

(*d*) for the purpose of expressing that a law relative to the chief or superior, of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

Application of law to successors of functionaries and corporation.

(*e*) for the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation the functionaries or corporation; and

Application of law to persons for time being filling an office.

(*f*) for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

Expressions used in bye-laws and orders to have same meaning as in Act under which they are made or issued.

10. Where an Act, to which this chapter applies confers power to make rules or bye-laws or to issue orders, expressions used in such rules, bye-laws or orders shall, unless a contrary in-

tention appears in the rules always been orders, have the same respective meanings as in the Act conferring the power.

Necessary extension of prescribed periods.

11. Where, by an Act to which this chapter applies, any act or proceeding is directed or allowed to be done or taken in a Court or office, on a certain day or within a prescribed period, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

CHAPTER III.

General Provisions applicable to all Acts.

Application of Chapter III to all Acts.

12. This chapter shall apply to all Acts made by the Governor of Fort St. George in Council, unless a contrary intention appears in any such Act, but it shall not affect anything done or commenced prior to the commencement of this Act under any enactment now in force.

When powers and duties to be exercised and performed.

13. Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

Exercise of power and performance of duty by temporary holder of office.

14. Where an Act confers a power or imposes a duty on the holder of an officer, as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

Revocation and alteration of rules, bye-laws and orders.

15. Where an Act confers a power to make any rules or bye-laws, or to issue orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, bye-laws or orders.

Duty leviable *pro rata*.

16. Whenever by an Act any duty of customs or excise or in the nature thereof is leviable on any given quantity, by weight, measure, or value, of any goods or merchandise, a like duty shall be leviable according to the same rate on any greater or less quantity.

Mode of conferring powers and imposing duties.

17. Whenever by an Act authority is given to confer powers or impose duties, such powers may be conferred or duties imposed by name or by office or on classes of officials generally by their official title.

References to provisions in Acts repealed and re-enacted.

18. Where an Act repeals and re-enacts, with or without modification, all or any of the provisions of a former Act, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted, and if notifications have been published, proclamations or certificates issued, powers conferred forms prescribed, local limits defined, offices established, orders, rules and appointments made, engagements entered into, licenses or permits granted, and other things duly done, under the provisions so repealed, the same shall be deemed, so far as the same are consistent with the provisions so re-enacted, to have been respectively published, issued, conferred, prescribed, defined, established, made, entered into, granted or done under the provisions so re-enacted.

Recovery of fines.

19. The provisions of sections 63, 68, 69, and 70 of the Indian Penal Code shall apply to all fines imposed under the authority of any Act.

Punishment for offences under more than one enactment.

20. Where an act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same act or omission.

Publication of orders and notifications in the *Fort St. George Gazette*.

21. Where in any Act, or in any rule passed under any Act, it is directed that any order, notification, or other matter shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the *Fort St. George Gazette*.

Determination of the times at which Acts or provisions of Acts extended or applied by Government to certain places shall come into force.

22. When by an Act, Government is empowered to extend or apply an Act, or any provision of an Act to any place in, or to any portion of, the Presidency of Madras, the Government may, in any order extending or applying such Act or provision or in a subsequent order, notify the time at which the same shall come into force in the place of portion of the Presidency to which it is so extended or applied; and unless it is otherwise provided in the Act, Government may, by notification in the *Fort St. George Gazette*, from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the Presidency, or cancel the order for extending or applying the same to such place or portion of the Presidency.

Proviso.

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the Presidency to which such order relates.

SERVICE OF PROCESS.

M. ACT NO. III. OF 1863.

PASSED ON THE 10TH APRIL 1863.

An Act to make better Provision for the service of Process under Act XIII of 1859.

Preamble.

WHEREAS the service of process issued under the authority of Act XIII of 1859 has been found to impose excessive labour upon the Police, and seriously to impede the discharge of their proper duties; and it is expedient to provide that such service should be otherwise effected; it is enacted as follows:—

Police not to serve Process under Act XIII. of 1859.

1. From and after the coming into operation of this Act, no Police officer shall be required to serve any Summons, or to execute any Warrant issued under Act XIII. of 1859; but every such Process shall be entrusted to peons specially appointed for that purpose.

Complainant to pay a fee of one Rupee for service of process.

2. Whenever any complaint is made of a breach of contract cognizable under Act XIII. of 1859, and before any process is issued in respect thereof, it shall be lawful for the Magistrate, to whom the complaint is made, to demand and require from the complainant a sum not exceeding one Rupee for each person on whom any such process is to be served; and such money shall be applied in payment of the peons employed for the purposes of the said Act.

Defendant may be compelled to repay this fee to the complainant.

3. Whenever a judgment is given against a defendant under Act XIII of 1859, it shall be lawful for the Magistrate in addition to any penalty which he may inflict under the said Act, to impose a fine not exceeding one Rupee; and such fine shall be recoverable in the manner provided by the said Act, and shall, when recovered, be paid over to the complainant.

Government may make Rules for certain purposes.

4. It shall be lawful for the Government of Fort Saint George from time to time to make Rules for the following purposes, and to alter and revoke the same:—

i.—With reference to the number of peons to be employed under this Act ; the terms upon which they are to be retained; and the rate of their remuneration.

ii.—With regard to the custody and disposal of the sums received from complainants under section 2 of this Act, and the mode of accounting for the same.

Meaning of word "Magistrate."

5. The word "Magistrate" in this Act shall be taken to mean every functionary by whom offences under Act XIII of 1859 are cognizable.

Act to be read with Act XIII of 1859.

6. This Act shall be taken and read as part of Act XIII of 1859.

Date of operation.

7. This Act shall come into operation on the first day of August 1863.

CATTLE DISEASES ACT.

ACT NO. II. OF 1866.

As amended by Act I of 1879.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[*Received the assent of the Governor on the 16th March* 1866, *and of the Governor-General on the 17th April* 1866.]

An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.

Preamble.

WHEREAS it is expedient to take measures to prevent the spreading of contagious or infectious diseases among animals in the Presidency of Madras, and with that object, to prescribe by law in what way animals so infected shall be dealt with, it is hereby enacted as follows :—

Act to be extended to such places, and during such periods of time, as the Governor in Council thinks proper.

1. This Act shall be put in force in such Districts, or parts of Districts, and during such periods of time, as the Governor in Council may, from time to time, direct by Notification in the Fort Saint George Gazette.

Interpretation.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

Magistrate.

The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include the feminine.

Animal.

The word "Animal" shall mean any Camel, Buffalo, Horse, Pony, Ass, Bull, Bullock, Cow, Heifer, Calf, Sheep, Lamb, Goat, Kid, or Swine.

Where Hospital Pounds shall be established.

3. Whenever this Act shall have been applied, as above provided to any District, or part of a District, Hospital Pounds shall be established in such places as

the Magistrate of the District, or in the city of Madras the President of the Municipal Commission, shall determine, and keepers shall be appointed to such Pounds by the said Magistrate. The village, or villages, by which every Hospital Pound is to be used, shall be determined and notified by the Magistrate.

Owner or person in charge of cattle to give notice when they are attacked by any contagious disease.

4. Whenever, in any District or part of a District to which this Act has been extended as above provided, any animal is attacked by any contagious or infectious disease, it shall be the duty of the owner, or of the person in charge thereof, to give immediate notice to the Keeper of the Hospital Pound, provided for the village or township in which the animal may, at the time, be.

Pound keeper to examine animal.

5. On receiving notice as aforesaid, the Keeper of the Hospital Pound shall as soon as possible, examine the animal, and shall decide whether it is necessary to place it in the Hospital Pound for treatment.

To direct removal to Hospital Pound if necessary.

6. If the Keeper of the Hospital Pound shall be of opinion that the animal has any contagious or infectious disease, he shall thereupon require the owner of the animal, or the person in charge thereof, to place it in the Hospital Pound, and, if necessary, shall require the owner, or the person in charge, to take such measures as he may direct, for disinfecting the shed or other place in which the said animal may have been kept.

Inspection of places in which any animal, suspected to be laboring under any contagious or infectious disease, may be found.

7. Every Keeper of a Hospital Pound, or person thereto authorized by the Magistrate of the District, or in the city of Madras the President of the Municipal Commission, shall have power, within the range for which he is appointed, to enter upon and inspect any premises or place in which any animal or animals, which he suspects to be laboring under any contagious or infectious disease, may be found, and to examine and inspect, whenever or wherever he may deem it necessary, any animal or animals which he suspects to be laboring under such disease, and to require the removal of such animal or animals to the Hospital Pound for the range.

Cleansing of premises in which any animal, laboring under any contagious or infectious disease, has been or may be.

8. Every Keeper of a Hospital Pound, or person thereto authorized by the Magistrate of the District, or in the City of Madras the President of the Municipal Commission, shall have power, with in his range, to cause to be cleansed and disinfected, in any manner which he may think proper, any premises

in which any animal, laboring under any contagious or infectious disease, has been or may be, and to cause to be disinfected, and if necessary destroyed, any fodder, manure, or refuse matter which he may deem likely to propagate the said disease.

Expenses for food and treatment to be borne by Cattle Pound Fund, unless owner supplies fodder and medicines.

9. From the time when any animal affected as aforesaid is taken charge of by the Keeper of the Hospital Pound, all expenses incurred on account of feeding and medical treatment for the said animal shall be borne by the Cattle Pound Fund established under Act III of 1857, unless the owner, or person in charge thereof, desires to supply the food and medicines himself: provided always, that such food and medicines shall be such as the Keeper of the Hospital Pound may approve or direct.

Animals destroyed to be buried, and no compensation claimable by owner.

10. The Keeper of the Hospital Pound, or other person thereto authorized by the Magistrate of the District, or in the city of Madras the President of the Municipal Commission, shall be empowered to destroy any animal either before or after it has been impounded as aforesaid, whenever it shall appear to him to be necessary to prevent the spread of contagion or infection. When any animal shall have been so destroyed, or shall die whilst in charge of the Keeper of the Hospital Pound, it shall be the duty of the said Keeper to have the carcase of the said animal buried at least six feet below the surface of the ground, and any cost incurred in so doing shall be met from the Cattle Pound Fund. No compensation shall be claimable in respect of any loss incurred by reason of any act authorized by this Section.

Fees to be charged, and animal to be sold to pay expenses if not paid.

11. Should an animal impounded as aforesaid recover from the disease under which it may have been labouring, the owner or person who was in charge thereof shall pay to the Keeper of the Hospital Pound, to be placed to the the credit of the Cattle Pound Fund, the actual cost of the feeding and treatment of such animal. Should he fail to pay the expenses aforesaid, then the said animal shall be sold by auction, and the sum realized by its sale, after deducting the amount of the expenses, shall be paid over to the owner, or the person who was in charge: provided always, that in such cases as the owner or person who was in charge may elect to supply food and medicine, he shall not be required to pay any charges whatever.

Prohibition against removal, without license, from one place to another,

12. No person having in his possession, or under his custody, any animal which has been in the same shed or stable, or in the same herd or flock, or in con-

of any animal which has been in the same shed, or in contact with any animal laboring under any contagious disease.

tact with any animal laboring under any contagious or infectious disease, shall remove such animal alive from his land or premises without the license of the Keeper of the Hospital Pound for the range, or of some person authorized by the Magistrate of the District, or in the city of Madras, the President of Municipal Commission, to grant such license. Every such license shall be in writing, and shall only permit the removal of such animal to some place where it can be conveniently kept apart from all other animals until the Hospital Pound Keeper, or other person authorized as aforesaid, is satisfied that there is no reasonable probability of such animal propagating the disease.

Penalty for failing to give notice when animal is attacked by disease.

13. If any person, who may be in charge of any animal at the time of its being attacked by a contagious or infectious disorder, shall fail to give notice to the Hospital Pound Keeper of the village, as required in section 4, the said person shall be liable, on conviction before a Magistrate, to a fine not exceeding Rupees five for every instance of such neglect, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

Penalty for refusing to obey directions of cattle Pound keeper, &c.

14. Any person who shall fail to comply with the directions of a Hospital Pound Keeper, or of a person duly authorized by the Magistrate of the District in that behalf, or in the city of Madras, the President of the Municipal Commission as to the impounding any diseased animal; or to the disinfecting any premises or place where any diseased animal may have been kept; or to the disinfecting or destroying any fodder, manure, and refuse matter which may be likely to propagate the disease; or who may remove, without a license, any animal which has been in the same shed or stable or in the same herd or flock, or in contact with any animal laboring under any contagious or infectious disease, shall, on conviction before a Magistrate, be liable for every such offence, to a fine of twenty Rupees, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

Penalty for opposing the seizure and impounding of diseased animals.

15. In any District or part of a District in which this Act is in force, it shall be the duty of all Hospital Pound Keepers, of all Police Officers not below the rank of a Head Constable, and of such other persons as the Magistrate of the District may especially empower, or in the city of Madras, the President of the Municipal Commission, to seize and impound all animals suffering from contagious or infectious disease, and any person who shall forcibly oppose such seizure, or who shall forcibly rescue the animals after such seizure, shall be deemed to

have committed an offence punishable under section 186 of the Indian Penal Code.

Owner may prefer complaint to Magistrate within ten days of the seizure of his animals.

16. Any person, whose animals shall have been seized as being diseased, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to any Magistrate. The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. If, on examination of the complainant or his agent, the Magistrate shall see reason to believe the complaint to be well founded, he shall summon the party complained against, and shall proceed to make a summary inquiry in to the case. If the seizure be adjudged illegal, the Magistrate shall award to the complainant such damages as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure, together with all expenses incurred by the complainant in procuring the release of the animals ; or, if the animals have not been released the Magistrate, in addition to the award of damages, shall make an order for their release, and shall direct that the expenses leviable under this Act shall be paid by the party who made the seizure. The amount of all damages and expenses so awarded shall be recoverable according to the process prescribed in Act No. V of 1865 (Madras), for the recovery of forfeitures or penalties imposed under the authority of Act XXIV of 1859.

Fees and fines to be credited to Cattle Pound Fund.

17. All fines levied under this Act shall be credited to the Cattle Pound Fund established under the provisions of Act III of 1857, which Fund shall be available for payment of all expenses incurred under the provisions of this Act, provided that it shall be lawful for the Officer inflicting a fine under this Act to direct any portion thereof, not exceeding one-half, to be paid to the informer.

Governor in Council may make and prescribe Bye-laws, with penalty for breach.

18. It shall be lawful for the Governor in Council, by notice published in the Fort Saint George Gazette, to make and prescribe such bye-laws, as may from time to time seem necessary, for the more effectually preventing the spreading of infectious or contagious diseases among animals, provided that such bye-laws shall not be repugnant to the provisions of this or any other Act. A breach of any such bye-laws shall render the party liable, on conviction before a Magistrate, to a fine not exceeding Rupees ten, commutable to simple imprisonment for fifteen days.

WILD ELEPHANTS.

M. ACT NO. I. OF 1873.

PASSED ON THE 15TH MAY 1873.

An Act to prevent the indiscriminate destruction of wild elephants.

WHEREAS it is expedient to make provision to prevent the indiscriminate destruction of wild elephants within the Presidency of Madras ; it is hereby enacted as follows :—

Preamble.

1. This Act extends to the territories for the time being subject to the Government of the Presidency of Fort St. George ; and it shall come into force on the first day of October 1873.

Local extent.

2. From and after the said day, the destruction of wild elephants is prohibited, except as hereinafter provided.

Commencement of Act.

3. Whoever shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code, the shooting at, or destruction of, any wild female elephant upon waste or forest land, whether such land be the property of Government or otherwise, shall be liable to a penalty not exceeding five hundred Rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding three months.

Penalty for destroying female elephants.

Any person convicted under this Act of an offence committed after his previous conviction under this Act, shall be liable to a penalty not exceeding one thousand Rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding six months.

4. Whoever, not being authorized thereto by a license granted under the provisions of section 7, shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code, the shooting at, or destruction of, any wild male elephant upon waste or forest land, the property of the Government, shall, upon a first or second conviction, be liable to the penalties and periods of imprisonment respectively provided for a first or second conviction in section 3 of this Act.

Penalty for destroying male elephant on Government land without license.

5. Nothing in this Act shall be deemed to prevent any Zemindar or other proprietor or occupier of land, or any person duly authorized in that behalf by any such Zemindar, proprietor, or occupier, from destroying wild male elephants upon the waste or forest lands of such Zemindar, proprietor, or occupier.

Saving clause as regards destruction of male elephants on Zemindary or private land.

6. Nothing in this Act shall be deemed to prevent any person from shooting at, or destroying any wild male or female elephant found upon cultivated lands, or upon or in the immediate vicinity of any public road, or to prevent any person from shooting at, or destroying any male or female elephant in defence of himself or any other person.

Saving clause as regards destruction of elephants found on cultivated lands, &c.

7. The Collector or other officer in charge of a district may, subject to such rules as may, from time to time, be made by the Local Government, issue a license to any person authorizing him by name to shoot wild male elephants upon waste or forest lands, the property of the Government, in such district, for the period of one year from the date of the grant of such license. Every such license shall become void at the expiration of the said period, but may be renewed by such Collector or other officer for a like period.

License to shoot male elephants.

Provided that every such license shall become void upon the conviction under this Act of the person to whom such license was granted.

Proviso.

8. The Local Government may make rules for regulating the grant or renewal of licenses under this Act, and the fees to be charged on such grant or renewal, and may, from time to time, alter or cancel such rules.

Power to make rules for grant or renewal of licenses.

9. Every prosecution under this Act shall be commenced within a period of six months from the date of the offence in respect of which it is instituted.

Limitation of prosecution.

COFFEE-STEALING.

M. ACT NO. VIII. OF 1878.

PASSED ON THE 28TH SEPTEMBER 1878.

An Act to prevent Thefts of Coffee.

WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of Coffee Plantations or Estates ; It is enacted as follows :—

Preamble.

1. This Act may be called "The Madras Coffee-stealing Prevention Act, 1878."

Short title.

2. This Act shall take effect in such districts, divisions, or parts of districts, or within such localities or limits within the Presidency of Fort St. George, and from such date, as the Governor in Council may from time to time direct by notification published in the Official Gazette.

Commencement and local extent of Act.

The Governor in Council may from time to time modify or cancel such direction by notification similarly published.

Power to modify or annul notification.

3. In this Act—

Interpretation.

"Laborer" means and includes all persons (except resident managers) temporarily or permanently employed on a Coffee-Estate in any capacity, whether agricultural, menial or otherwise howsoever.

Laborer.

"Carrier" means and includes all persons for the time being employed in the transport of coffee, whether by porterage, pack-animals, boat, cart or otherwise, and whether as contractors, drivers or otherwise.

Carrier.

"Coffee-Estate" means and includes any land on which coffee is growing.

Coffee-Estate.

"Coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption.

Coffee.

4. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any laborer employed on a Coffee-Estate.

Coffee not to be taken from laborer.

5. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any person other than a laborer employed on a Coffee-Estate, unless the person so purchasing, taking in barter or exchange, or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying—

Coffee not to be taken from other than laborer, unless particulars entered in book.

(*a*) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange, or received ;

(*b*) the date of the transaction ; and

(*c*) the quantity and description of the coffee so purchased, taken in barter or exchange, or received.

Provided that this section shall not apply to coffee purchased, taken in barter or exchange, or received from any person other than a laborer employed on a Coffee-Estate, and intended *bona fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange, or receiving the same as aforesaid.

Section not to apply to coffee taken for *bona fide* personal consumption.

6. All books required by section five to be kept by persons purchasing coffee shall be produced upon the requisition of any Police Officer not below the rank of an officer in charge of a Police Station, generally or specially authorized by any Magistrate to require the production of such books.

Books to be produced on Police Officer's requisition.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taking in barter or exchange such coffee shall, besides making the entry required by section five of this Act, also enter or caused to be entered in the book mentioned in the said section five the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section five be also correctly signed by such carrier in his own name, and attested by a Police Officer or the headman of the village within which the transaction takes place ; for which attestation no fee shall be chargeable.

Conditions under which coffee may be taken from a carrier.

8. Any person committing any breach of the provisions contained in section four, five, six or seven of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred Rupees.

Penalty for breach of section 4, 5, 6 or 7.

9. Any cooly maistry or other laborer employed on a Coffee-Estate found with green gathered coffee in his possession, and failing to account satisfactorily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred Rupees.

Penalty in case of laborer being found in possession of green coffee for which he cannot account.

10. No person shall carry or remove coffee from any Coffee Estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Coffee not to be carried without permission of owner or agent.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars :—

Permission to be in writing, &c.

(*a*) the quantity of the coffee to be carried or removed ;

(*b*) the number, description and marks of the packages in which such coffee is secured ;

(*c*) the place or destination to which the coffee is to be carried or removed ; and

(*d*) the names of the consignor and consignee.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred Rupees.

Penalty for breach of this section.

11. No coffee shall be gathered, moved, loaded or unloaded on any Coffee-Estate between sunset and sunrise.

Hours of gathering or removing coffee.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code) such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred Rupees.

Penalty for breach of above provision.

Provided that nothing in section ten or in this section shall apply to the ordinary operations of curing the crop on the estate, such as pulping or storing.

Section 10 and this section not to apply to ordinary operation of curing.

12. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections three hundred and seventy-eight and three hundred and seventy-nine, or sections one hundred and seven, one hundred and

Procedure if gathering, &c., was done to commit theft.

eight and one hundred and nine, of the Indian Penal Code, as the case may be.

Substituted or additional punishment for second offence under section 9.

13. It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section nine of this Act, to substitute or add corporal punishment under the provisions of Act No. VI of 1864 (*An Act to authorized the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf, for or the penalties provided by this Act.

Proviso.

Provided that such substituted or additional punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine.

Fines to be paid into public-treasury.

14. All fines paid or levied under this Act shall be paid into the public-treasury.

Magistrate may grant rewards to informers.

Provided that the Magistrate trying any case under this Act may grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act.

CANALS AND FERRIES.

M. ACT NO. II. OF 1890.

PASSED ON THE 9TH MAY 1890.

An Act to make better provision for the establishment of Canals and Public Ferries in the Presidency of Madras and for the management thereof.

Preamble.

WHEREAS it is expedient to make better provision for the establishment of canals and public ferries in the Presidency of Madras and for the management thereof, it is enacted as follows :—

Short title and local extent.

1. This Act may be called the Canals and Public Ferries Act, 1890.

It extends to the whole of the Presidency of Madras.

Repeal.

2. From and after the date when this Act comes into operation, Act I of 1870 (Madras) and Act IV of 1878 (Madras) shall be repealed. Provided that all notifications issued, rules made, licenses granted and engagements entered into under the said Acts, shall continue in force and shall be deemed so far as may be to have been issued, made, granted and entered into under this Act.

Definitions.

3. In this Act "vessel" includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner.

"Channel" includes any water way whether natural or artificial.

"Line of navigation" means any navigable channel, or series of connected navigable channels.

"Canal" means a line of navigation declared to be subject to the provisions of this Act.

"Ferry" means a place at which goods, animals, or passengers are conveyed across a channel by means of vessels.

"Public ferry" means a ferry declared to be subject to the provisions of this Act.

Power to apply Act to any line of navigation.

4. The Governor in Council may, by notification in the *Fort St. George Gazette*, declare any line of navigation to be subject to the provisions of this Act from a date to be named in such notification, and may in like manner cancel or modify any such notification.

Licensing and registration of vessels.

5. All vessels carrying goods, animals or passengers for hire on a canal shall be licensed ; and all vessels otherwise using a canal shall, if the Governor in Council so directs, be registered.

Power to fix fees, &c.

6 The Governor in Council may from time to time—

(*a*) fix rates of fees payable for the licensing or registration of vessels ;

(*b*) establish stations at which tolls shall be levied on vessels passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls ;

(*c*) fix fees for the use of public landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses provided for the accommodation of vessels using a canal or of goods or passengers carried or to be carried thereon and for demurrage on vessels or goods detained therein.

A notification of such tolls or fees under clauses (*b*) and (*c*) of this section shall be exhibited to public view in English and in the vernacular language of the district at the places where such tolls or fees are leviable.

Power to impose punishment, &c.

7. Any person duly empowered by Government in this behalf may—

(i) suspend or cancel the license or registration of any vessel in case of breach of any condition thereof, or in lieu of such suspension or cancellation or of prosecution may recover from the person in charge of the vessel a penalty not exceeding five rupees for each such breach ;

(ii) remove from the canal any vessel which may be sunk or abandoned therein, and may recover any expense incurred in so doing by the sale of the vessel. A vessel left for more than three days without a competent person in charge shall be held to be abandoned ;

(iii) in case of emergency remove any other obstruction, or contrivance for fishing, or other thing which is an impediment to navigation, or in other cases serve notice upon the owner if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself. Expenses incurred under this clause shall be recoverable from the owner. Provided always that in cases of interference with private rights, reasonable compensation shall be payable ;

(iv) prohibit the construction of any contrivance for fishing or for any other purpose in the canal or any erection therein or on a tow-path or other land appurtenant thereto ;

(v) stop any vessel navigating the canal in contravention of any of the provisions of this Act or of any rule made or any condition of license or registration prescribed thereunder, and may detain it until the same is complied with or until penalty has been paid or recoverd under clause (i) of this section or until the offence, if any, has been enquired into and disposed of.

Powers under this section may be conferred either by name or in virtue of an office.

Power to apply Act to any ferry and define limits of ferry.

8. The Governor in Council may, by notification in the *Fort St. George Gazette*, declare any ferry to be subject to the provisions of this Act from a date to be named in such notification and may define the limits of such ferry. The Governor in Council may, in like manner, cancel or modify any such notification.

Upon such application existing rights of ferry to cease.

9. From such date all previously existing rights of ferry within the limits defined in the notification shall cease and determine, and it shall be unlawful for any person not duly authorised to convey goods, animals or passengers by means of vessels across a channel within such limits while such notification is in force. Provided that when rights of ferry are extinguished under this section, compensation shall be payable for such extinction and shall be assessed as near as may be under any law for the time being in force relating to the acquisition of land for public purposes.

Proviso.

Power to provide for management of ferries and fix fees and rates of toll.

10. The Governor in Council may provide for the management of public ferries or may authorize any person to convey goods, animals or passengers across a channel by means of vessels at a public ferry. All vessels so used by such person shall be licensed, and the Governor in Council may fix the fees payable for such license and also the tolls leviable upon passengers, animals, vehicles and goods conveyed across such ferry. A notification of such tolls shall be exhibited to public view in English and the vernacular of the district on each side of the ferry.

Power to assign management of ferry to Local Board or Municipal Council.

11. The management of any canal or public ferry may, by order of the Governor in Council, be assigned to a Local Board or Municipal Council, and thereupon in every such case the revenue accruing

therefrom shall be credited to the funds of such managing authority, which shall exercise all the powers stated in section 7, and may, subject to the control of Government, confer such powers on its servants. All persons duly empowered under section 7 shall be deemed to the public servants within the meaning of the Indian Penal Code.

Power to appoint persons to collect tolls or fees and to lease out collection thereof.

12. The Governor in Council or the managing authority shall appoint persons to collet tolls or fees payable under this Act. The collection of such tolls or of fees other than license fees may, under such conditions as the Governor in Council may from time to time prescribe, be leased out, and in such case the lessee and his agents and servants shall be deemed to be so appointed.

Procedure in case of non-payment of toll, &c., on demand.

13. In case any tolls, fees other than license fees or penalties payable under this Act are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles, or animals in respect of which such toll, fee or penalty is payable or anything in the possession of a passenger or person who is liable to such toll, fee or penalty, and any person empowered by Government or the managing authority in this behalf may sell the same by auction after 15 days' public notice of the sale if such toll, fee or penalty is still unpaid. After deduction of such toll, fee or penalty and of the expenses of sale, the surplus proceeds, if any, shall be paid to the person from whose possession the thing sold was taken.

What payments may be recovered as arrears of revenue.

14. All canal and ferry rents and expenses incurred under section 7 may be recovered by the collector of the district in like manner as if they were arrears of land revenue.

Form, &c., of licenses and registrations.

15. All licenses granted and registrations effected under this Act shall be in such form, shall be valid for a voyage or for such time, and shall contain, or be subject to, such conditions as the Governor in Council may from time to time direct.

Power to make rules.

16. The Governor in Council may make rules in respect of any canal or public ferry for all or any of the following purposes :—

(i) declaring the power to be exercised by any person employed under this Act ;

(ii) providing for the grant of licenses, for the inspection of licensed vessels, and for their maintenance in good conditions ;

(iii) regulating the dimensions and free board of vessels using any canal or public ferry, the equipment of the same, and the number of passengers and the nature and quantity of cargo to be carried therein;

(iv) regulating the speed at which vessels shall be moved, the passing of vessels, the lights to be exhibited by vessels moving or at anchor, the working of locks, the mooring of vessels, and the use of landing-places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses;

(v) the disposal of vessels or other things confiscated or seized under this Act;

(vi) for the convenience of passengers; and generally for the purposes of this Act.

Penalty for breach of rule.

17. Any person who breaks any rule made under this Act shall be punishable on conviction by a criminal court with fine not exceeding fifty rupees in case of a single offence, and in case of continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year or to fine of Rs. 500 or both.

Penalty for navigating a canal or establishing or working a ferry in contravention of section 5 or 9.

18. Any person navigating a canal or establishing or working a ferry in contravention of section five or nine of this Act shall be liable on conviction before a criminal court to fine not exceeding Rs. 500.

Penalty for evasion of toll or fee and for unauthorized levy of toll, &c.

19. Any person who refuses or evades payment of any toll or fee payable under this Act, or without due authority levies any toll or fee under colour of this Act, or, being empowered to collect tolls or fees under this Act collects or receives any sum in excess of the lawful due, shall on conviction by a criminal court be punishable with imprisonment of either description not exceeding one month or with fine not exceeding Rs. 100 or with both.

Power of Court to order confiscation.

20. On conviction had of any offence under this Act, the Court may order that any vessel or other thing used in the commission of such offence shall be confiscated.

VILLAGE CESS.

M. ACT NO. IV. OF 1893.

PASSED ON THE 4TH JULY 1893.

An Act for the levy of a cess towards the remuneration of village officers and for other purposes connected with the discharge of their duties.

Preamble.

WHEREAS the remuneration of village officers in the Revenue and Police Departments in the Madras Presidency is met partly by fees and other contributions payable by landholders, partly by a cess imposed in lieu thereof, and partly by contributions from General revenues; and whereas it is expedient to make better provision for the levy of such cess, for its imposition in any part of the Presidency, and for the appropriation thereof and of the contributions aforesaid from general revenues to the remuneration of village officers and to other purposes connected with the discharge of their duties and with the administration of the Village-Service-Fund; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Village Cess Act, 1893.

Local extent and commencement of Act.

2. It shall come into force from such date as the Governor in Council shall by notification direct and from such date it shall extend to all districts and parts of districts in which Madras Act IV of 1864 (*An Act for the levy of a cess in lieu of village service fees*) or Madras Act I of 1883 (*An Act to remove doubts as to the extent of Madras Act IV of* 1864) is then in force. The Governor in Council may further extend this Act to any other district or part of a district in the Presidency of Madras from such date as he may by notification direct.

Repeal of Acts IV of 1864 and I of 1883.

3. Madras Act IV of 1864 (*An Act for the levy of a cess in lieu of village service fees*) and Madras Act I of 1883 (*An Act to remove doubts as to the extent of Madras Act IV of* 1864) are hereby repealed.

Validation of levy and appropriation of cess under Act IV of 1864.

4. Notwithstanding anything contained in Madras Act IV of 1864, no levy of a cess hitherto imposed in any district or part of a district under the authority of the Governor in Council purporting to be made under the said Act IV of 1864 shall be deemed to have been illegal by reason of the non-existence of a custom in such district or

part of a district of payment of fees in money or kind towards the remuneration of village officers; and no appropriation of the cess levied under the said Act IV of 1864 outside the village or group of villages in which the cess was levied shall be deemed to have been illegal by reason of such appropriation.

Statement of village officers to whom this Act applies.

5. This Act shall apply to the following six classes of village officers, by whatever designation they may be locally known, namely:—

(1) Village munsifs.
(2) Potels, monigars and peddakapus.
(3) Karnams.
(4) Nirgantis.
(5) Vettis, totis and tandalgars.
(6) Taliaris.

In case of doubt as to any village officer, the Governor in Council shall have power to decide whether such officer comes under any of the above classes, and, if so, under which of them.

Village fees to cease in districts to which Act is applied.

6. On this Act coming into force as provided in section 2 in any district or part of a district, all fees, contributions and allowances collected or demandable for the remuneration of village officers shall absolutely cease and determine.

Penalty for illegal collection of fees, &c.

Whoever thereafter in such district or part of a district demands, collects or receives such fees, contributions or allowances shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

Governor in Council may impose a money cess for purposes connected with village service.

7. The Governor in Council may, in any district or part of a district to which this Act may be applied, impose, for the purposes of this Act, a money-cess upon all holders of land on ryotwari tenure, upon the holders of inams situated within the limits of a ryotwari village and upon the holders of inam villages which, for purposes of village administration, are grouped with ryotwari villages.

Constitution and appropriation of village service fund.

The balances of all funds constituted under Madras Act IV of 1864, the proceeds of the cess imposed under this Act, and all contributions from general revenues for the purposes of this Act, shall constitute a fund to be called the "Village Service Fund," which may be appropriated, in such manner as may be directed by Government, to the remuneration of village officers within the area to which this Act is

Manner of payment of the cess.

applied, and to any other purposes connected with the discharge of their duties or with the administration of such Fund. Every landholder shall pay to the Collector or other officer empowered by him to receive it, the cess imposed on him under this Act on or before such dates and in such instalments as the Collector, under the general orders of Board of Revenue, may, by notification, declare.

Provided that, holders of inam-lands on whom cess is imposed under this Act shall be entitled to recover from their tenants one-half of the amount payable in respect of lands occupied by such tenants.

Contributions from general revenues to form moiety of total fund.

8. The total contributions of all kinds from general revenues to the Village Service fund constituted as aforesaid shall be equivalent to the estimated proceeds of the cess imposed under this Act.

Cess to be uniform and to be levied at rates to be fixed by Government.

9. The rate of cess imposed under this Act shall be uniform throughout the area to which this Act is applied and shall be determined by the Governor in Council so that the estimated proceeds of the cess shall be as nearly as possible equivalent to half the cost of the village service within the area to which this Act is applied; but the rate shall not exceed one anna in every rupee of assessment and water-tax.

Method of calculating cess in the case of certain inams.

In the case of inam lands held wholly or partially free from assessment, the cess shall be imposed at the rate so determined on the full assessment and full water-tax which such lands would bear if they were not inam; and such full assessment and water-tax, if not already fixed and known, shall be determined by the Collector of the district subject to the control of the Board of Revenue. Such determination by the Collector shall not be liable to revision by any Court of Civil Judicature.

Exclusion of jurisdiction of Civil Court.

WATER CESS.

M. ACT NO. VII. OF 1865.

PASSED ON THE 7TH SEPTEMBER 1865.

An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.

Preamble.

WHEREAS, in several Districts of the Madras Presidency, large expenditure out of Government Funds has been and is still being incurred in the construction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land: and whereas, it is right and proper that a fit return should, in all cases alike, be made to Government on account of the increased profits derivable from lands irrigated by such works; it is enacted as follows:—

The Government may levy a water-cess in addition to land assessment in certain cases.

1. Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work belonging to, or constructed by, Government, it shall be lawful for the Government to levy, at pleasure, on the land so irrigated, a separate cess for the use of the water, which cess shall be additional to any land-assessment that may be leviable on the said land as unirrigated or punjai, and the Government may prescribe the rules under which, and the rates at which, such water-cess as aforesaid shall be levied, and alter or amend the same from time to time.

Note.

As to rules providing for the levy of water-rate in addition to land assessment, see Board's Standing Order, No. 4. The scale of Standard rates is given in the Appendix to this order. There are special rules for levying water-rate in the Kistna and Godaveri Deltas which are also given in the same Appendix.

Water-cess how recoverable.

2. Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of land-revenue are, or may be realized by law in the Madras Presidency.

Note.

Realized &c.—*I. e.*, by the sale of either the moveable or the immoveable property of the defaulter, or of both, at the discretion of the Collector. See Board's Standing Orders, No. 106 and the Madras Revenue Recovery Act, No. II of 1864, as amended by Act III of 1884.

No action shall lie against any officer for any thing done relating to the levy of water-rates heretofore imposed with the sanction of Government.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for any thing done by him previous to the passing of this Act, in, or relating to, the imposition or levying of any such water-rates heretofore imposed or levied with the sanction of the Local Government.

Scope of Act.

4. This Act shall extend to all lands held by Zemindars, Inamdars or any other description of landholders, for the irrigation of which water may be supplied or used from any such river, stream, channel, tank or work as is specified in section 1; provided always, that where a Zemindar or Inamdar, by virtue of engagements with the Government, is entitled to irrigation free or separate charge, no cess under this Act shall be imposed for water supplied to the extent of such right and no more.

Note.

For any thing done &c.—This does not apply to anything that may be done by such officer after the passing of this Act.

COMPULSORY LABOUR.

[*EXTRACTS.*]

ACT NO. I. OF 1858.

RECEIVED THE G.-G'S ASSENT ON THE 20TH JANUARY 1858.

*An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort Saint George.**

Preamble.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the labouring classes, when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage; It is enacted as follows:

Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embarkments and anicuts.

1. Whenever it shall appear to the officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work; or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able bodied male persons of the labouring classes in such village or villages to cooperate in the work necessary for preventing or repairing the breach as the case may be.†

* Declared to apply to the whole of the Madras Presidency, except the Scheduled Districts, by Act XV. of 1874.

† 4 Madras High Court Rulings, xxi.

In the absence of the said officer, it shall be lawful for the tahsildar of the taluq to make such requisition in his stead.

And if neither the said officer nor the tahsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the labourers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the labourers of their villages to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

2. Any male person of the labouring classes, being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse, shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

BOUNDARY-MARKS.

[*EXTRACTS.*]

ACT NO. XXVIII. OF 1860.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JUNE 1860.

*An Act for the establishment and maintenance of boundary-marks, and for facilitating the settlement of boundary-disputes in the Presidency of Fort Saint George.**

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of boundary-disputes and claims; It is enacted as follows:—

Preamble.

* * * * *

4. Any occupant or owner of land or other person whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such officer aforesaid, shall refuse or fail to attend at the demarcation, measurement or assessment of his field, holding, or estate, or for the determining and marking the village-boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary;

Penalty for failure of owner, &c., to attend,

and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry,

And for false statement, &c.

shall be liable, by order of such officer aforesaid, to a fine not exceeding fifty rupees, to be levied by warrant under the hand of the officer imposing it, in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.†

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* Declared to apply to the whole of the Madras Presidency, except the scheduled Districts, by Act XV. of 1874. Extended to Coorg, 15th February 1865.

† See Act XII of 1891.

9. Any person convicted before a Magistrate, or person exercising magisterial powers, of wilfully, and without lawful excuse, erasing, altering, removing, or injuring any boundary-marks whatsoever, whether established under this Act or otherwise existing, or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark ; the fine to be levied in the mode prescribed above in section four :

Penalty for erasing, &c., marks.

Reward for informer.

Provided always that a magisterial officer shall have power to impose a fine under this clause only to the amount to which he is competent to fine in misdemeanours under his general powers.

Extent of power to fine.

Note.

In the mode prescribed in section 4—I. e., in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.

29. If any person shall obstruct, molest, or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising magisterial powers, to a fine not exceeding fifty rupees, or, in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding one hundred and fifty rupees, or imprisonment not exceeding six months :

Punishment for obstructing officers, &c.

Provided, however, that a magisterial officer shall have power to punish under this clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanour, under his general powers.

Extent of power to punish.

REVENUE RECOVERY.

[*EXTRACTS.*]

M. ACT NO. II. OF 1864.

An Act to consolidate the Laws for the recovery of arrears of Revenue in the Madras Presidency :

Penalty for fraudulent conveyance of property to prevent distress.

16. Where a defaulter may make a fraudulent conveyance of property to prevent the distress of arrears, any Civil Court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer. The default will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.

Penalty for forcibly or clandestinely taking away distrained property.

18. Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

What places distrainer may force open.

19. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein ; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the zenana or residence of woman, except as hereinafter provided.

Powers of distrainer to force open doors in the presence of a Police Officer.

20. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police-Station. On such representation, the officer in charge of the said station shall send a Police Officer to the spot, in the presence of

whom the distrainer may force open the outer door of such dwelling-house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Punishment for unlawful entry.

21. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

RENT RECOVERY.

[*EXTRACTS.*]

M. ACT NO. VIII. OF 1865.

An Act to consolidate and improve the laws which define the process to be taken for the Recovery of Rent.

26. When a defaulter may make a fraudulent conveyance of property to prevent the distress of arrears, any Civil Court of competent jurisdiction, upon proof thereof, *shall* summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.

Penalty for fraudulent conveyance of property to prevent distress.

27. When it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court *may* summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

Penalty for forcibly or clandestinely taking away distrained property.

28. It shall be lawful for the distrainer to force open any stable, cowhouse, granary, godown, out-house or *other building*, and he may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein ; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the zenana or residence of women, except as hereinafter provided.

What places distrainer may force open.

29. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police-station. On such representation, the officer in charge of the said station shall send a Police Officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling-

Powers of distrainer to force open doors in the presence of Police Officer.

house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein ; but such property, if, found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Punishment for unlawful entry.

30. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees five hundred, or to imprisonment of either description for any period not exceeding six months.

BREACH OF STAMP LAW.

REG. V. OF 1831.

PASSED ON THE 24TH MAY 1831.

A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the Salt, Tobacco and Stamp Laws:

Penalty for filing or furnishing copies of papers not written on stamp paper.

7. *Second.*—Whenever a petition, pleading, or other document, which may not have been written on the prescribed stamp, shall be filed in any Court of Justice or in the office of any Collector or other public officer, or whenever it shall appear that a copy of any paper or proceeding shall have been furnished on paper not bearing the prescribed stamp, the Judge or Judges of the Court, the Collector or other public officer, shall call upon the ministerial officer by whom such petition or other document was filed, or by whom such copy shall have been furnished, to show cause why the prescribed fine should not be imposed upon him ; and on his failure to show good cause, shall forthwith proceed in the ordinary manner to levy from him the penalty prescribed.

Note.

The whole of this Regulation except the above portion was repealed by Madras Act II of 1869.

VILLAGE PUNCHAYET.

[*EXTRACTS.*]

REGULATION V. OF 1816.

Members liable to prosecution for corruption.

18. *First* :—Any member or members of Village Punchayets shall be liable to prosecution in the *Zillah* Court for corruption in the discharge of their trust by either party in a suit which may have been referred to such punchayet, and upon proof of the charge to the satisfaction of the *Zillah* Judge, he shall adjudge the offender or offenders to pay the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit ; but members of Village Punchayets shall not be liable to be prosecuted for want of form, or for error in their proceedings or judgment ; nor shall any process whatever be issued against a member or members of a Village Punchayet, who may be charged with corruption, unless the Judge shall be previously satisfied by sufficient evidence that there is probable cause to believe that the charge is well founded, and unless the charge shall be preferred within three months from the date of the act of corruption complained of.

Second :—The *Zillah* Judge shall further fine the party by whom, or for whom, the corruption may have been practised in the suit, provided he shall have assented to such corruption, in a sum equal to the value of the thing or sum of money which any member or members of such Village Punchayet may be proved to have so corruptly received.

Third :—If the corruption charged against any member or members of such Village Punchayet shall not be proved to the satisfaction of the *Zillah* Judge, he shall award full costs and such damages to the member or members complained against as may appear to him to be equitable, and he shall levy a fine from the party making such groundless charge, not exceeding the value of the thing or sum of money charged to have been corruptly received.

MAPPILLAS, MALABAR.

ACT NO. XX. OF 1859.

RECEIVED THE G.-G.'S ASSENT ON THE 31ST AUGUST 1859.

An Act for the suppression of outrages in the district of Malabar in the Presidency of Fort St. George.**

Preamble.

WHEREAS, in the district of Malabar, in the presidency of Fort St. George, murderous outrages have been frequently committed by persons of the class called Mappillas,† the offenders in such outrages intending therein to sacrifice their own lives, and the general law of the country is not adequate to suppress such outrages ; It is enacted as follows :—

1. [*Repealed by Act XIV. of 1870.*]

Power to declare whole or part of Malabar under Act.

2. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the *Fort St. George Gazette*, from time to time to declare the whole or any part or parts of the district of Malabar to be subject to the operation of all or any of the following provisions.

Forfeiture of property of Mappillas convicted of outrages.

3. Any Mappilla who murders or attempts to murder any person, or who takes part in any outrage directed by Mappillas against any persons wherein murder is committed, or is attempted to be committed, or is likely to be committed ; and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same ; or who, after having committed, or having been accessary to, any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him ; or who shall join or assist, or incite or encourage other persons to join or assist, in such resistance ; shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried ;

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* Continued by Madras Act VII. of 1869.

† "Mappilla, lit. the son (pilla) of his mother (ma), as sprung from the intercourse of foreign colonists, who were persons unknown, with Malabar women."—Wilson.

and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court which would have had cognizance of the offence if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender; and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

Of persons killed in committing outrages.

4. All immoveable property of the offender which shall be alienated after the passing of this Act, and before the commission of any offence specified in section three, shall be forfeited in the same manner as if no such alienation had been made, unless the same shall have been made more than twelve months before the commission of the offence.

Of immoveable property of offender.

5. If any Mappilla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court by which such offender is convicted, by its sentence to direct the body of such offender to be burned or buried within the precincts of the jail, as it shall see fit; and in like manner, if any Mappilla shall be killed in the act of committing any such offence as aforesaid, or, having committed any such offence as aforesaid, shall be killed in resisting a lawful attempt to apprehend him, it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the jail, as the said Magisrate shall see fit.

Disposal of bodies of offending Mappillas.

6. The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of any such law shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this section.

Powers of Governor in Council as to confinement or trial.

7. The Magistrate of the District may cause any Mappilla or other person against whom there are, in his judgment, grounds of proceeding under the last section, to be apprehended, and, after such inquiry as he may think necessary, may detain such Mappilla or other person in safe custody, until he shall have received the orders of the

Procedure for Magistrate in respect to suspected persons.

Governor in Council, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbidden limits.

8. If, with the previous consent of the Governor in Council, any person against whom the Governor in Council shall think fit to proceed under section six, shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the Continent of India or of any part thereof, and shall, in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment with or without hard labour for a period which may extend to seven years, or with fine, or both.

Levy of compensation or fine.

9. Whenever any such outrage as is specified in section three of this Act, the same being punishable under this Act, shall, after such proclamation as aforesaid, have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize, from all the Mappillas within the amsham or the several amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrages shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, and also within the amsham in which the outrage shall have been committed; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Mappillas within such amsham or amshams, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place, to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death; and, subject to such compensation, to the use of the Government.

Penalty on Mappilla inhabitants of amsham refusing to deliver up offender.

10. Whenever any such outrage as is specified in section three of this Act, the same being punishable under this Act, shall have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate to call upon the Mappilla inhabitants of the amsham or amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrage shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, or wherein any

such perpetrator shall, after the perpetration of any such outrage, be found, to deliver up such perpetrator or perpetrators, and on the failure of such Mappilla inhabitants to comply with such call so made upon them by the Magistrate, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy from such Mappilla inhabitants such sum of money as the Governor in Council shall authorize as prescribed in the last preceding section of this Act, and all sums so levied shall be appropriated in the manner prescribed in that section.

Fines, &c., how levied.

11. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the public revenue may be realized by a Collector ; and no action shall lie in any Civil Court against the Magistrate in respect of any fine imposed or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

Power to withdraw parts of Malabar from Act.

12. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time to withdraw from the operation of the provisions of this Act any part or parts of the said district which he may previously have declared to be subject thereto ; and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

GAME AND FISH.

M. ACT NO. II. OF 1879.

PASSED ON THE 24TH MARCH 1879.

An Act to provide for the protection of Game and Acclimatised Fish in the District of the Nilgiris in the Madras Presidency.

Preamble.

WHEREAS it is expedient to provide for the protection of wild animals and birds used for food and of acclimatised fish, and to prohibit the killing, capturing and selling game and acclimatised fish in the district known as the Nilgiris, as described in the Schedule hereto appended, under certain conditions ; It is hereby enacted as follows :—

Title and local extent.

1. This Act may be called " The Nilgiris Game and Fish Preservation Act, 1879 ;" and it shall come into operation in the district aforesaid, or such parts thereof, and from such dates as the Governor in Council may from time to time declare by notification in the *Fort St. George Gazette*.

Interpretation-clause— " Game."

2. In this Act the word " game" shall include bison, sambhur, ibex, jungle-ship, dear of all descriptions, hares, jungle-fowl, pea-fowl, partridge, quail, and spur-fowl, or such birds or animals as the Governor in Council may deem fit to specify by notification from time to time in the *Fort St. George Gazette*.

Power to fix close season.

3. The Governor in Council may, by notification in the *Fort St. George Gazette*, from time to time, fix a season or seasons of the year during which it shall not be lawful for any person to shoot at, kill, capture, pursue or sell, or attempt to kill, capture or sell game, as may be specified in such notification within the district aforesaid.

Proviso as to private lands.

Provided that nothing in this Act contained shall preclude proprietors or occupiers of land from adopting such measures on such land as may be necessary for the protection of crops or produce growing thereon.

Protection of animal, bird or fish not indigenous.

4. Whenever any animal, bird or fish useful for food, not indigenous to the district aforesaid, is introduced into it with the approval of the Government with a view to becoming acclimatised or being propagated therein, it shall be lawful for the Governor in Council from time to time, by notification in the *Fort St. George Gazette*, to prohibit altogether, or to re-

gulate in such manner and for such period not exceeding three years as may be declared in such notification, the pursuit, killing or capture of such animal, bird or fish.

Power to prescribe rules for the regulation and control of fishing.

5. It shall be lawful for the Governor in Council, by notification in the *Fort St. George Gazette*, from time to time to make rules for the regulation and control of fishing in any stream or lake within the said district; and such rules may, with the view to protect acclimatised fish which may be believed to be there or may be hereafter introduced therein, prohibit or regulate the poisoning of the waters of any stream or lake, the throwing of any deleterious matter therein, the use of fixed engines for the capture of fish in any stream, and the use of nets of a mesh below a certain size to be defined in such rules for the capture of fish in such stream or lake.

Power of Government officer or police.

6. Any Government officer or servant or policeman producing his certificate of office, or wearing the prescribed distinctive dress or badge of his department, may require any person whom he finds committing any offence against sections 3, 4 or 5 of this Act, to give his name and address, or, if there is reason to doubt the accuracy of the name and address so given, to accompany him to the nearest police-station.

Penalties for shooting &c., during close season and for breach of fishing rules.

7. Every person convicted before a Magistrate of any offence against sections, 3, 4 or 5 of this Act shall be liable for a first offence to a penalty not exceeding rupees fifty and to the forfeiture to Government, at the discretion of the Magistrate, of the game, birds or fishes taken, and of all guns, engines, implements, nets and dogs used in or for the purpose of aiding the commission of such offence, and, in default of payment of fine, to simple imprisonment for a period not exceeding one month, and for every second and subsequent offence to a penalty not exceeding rupees one hundred and the same liability to forfeiture, and in default of payment to simple imprisonment for a period not exceeding two months.

Procedure under this Act.

8. The provisions of the Code of Criminal Procedure relating to the summoning and examination of persons accused and witnesses and to the levying of penalties shall be applied to proceedings under this Act.

Appropriation of fees, fines, &c.

9. All fees, fines and forfeitures realised under this Act shall be paid into the public treasury.

Award to informer.

But it shall be competent to the convicting Magistrate to award such portion of the fine or of the proceeds of the forfeiture as he may think fit, not exceeding one-half the amount of full fine authorised to be imposed by this Act in any case under this Act, to the person or persons on whose information the conviction is obtained.

SCHEDULE REFERRED TO IN THE PREAMBLE.

The Nilgiri District shall for the purpose of this Act be held to be bounded by—

The north bank of the Bhavani River from Attipadi in the Attipadi Valley to the junction of the Moyar River.

The west and south banks of the Moyar River from its junction with the Bhavani to the point in the Mudumullah District nearest to Gudalur.

A line carried thence to the head of the Pandy River (Oucheterlony Valley).

The east bank of the Pandy River to where it falls near the Karkur Pass into Malabar Payenghaut.

A line along the south crest of the Ouchterlony Valley and across the western slopes of the Nilgiri and Mukurti Peaks and Sisaparo Ranges to Wallaghaut.

A line thence along the west crest of the Silent Valley (Malabar) Range.

N.B.—The district shall include the entire tract known as the Silent Valley.

A line from the south end of the above-named range to the Bhavani River at Attipadi in the valley of the same name.

POWER TO ESTABLISH MARTIAL-LAW.

REGULATION VII. OF 1808.*

PASSED ON THE 1ST APRIL, 1808.

A Regulation for declaring the powers of the Governor in Council to provide for the immediate punishment of certain offences against the State, by the sentence of Courts Martial.

WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government in any part of the British territories subject to the Government of the Presidency of Fort St. George, the Governor in Council shall declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions, and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified,—the following Regulation has been enacted by the Governor in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort St. George.†

Governor in Council empowered to establish martial-law;

and to direct trial, by Courts-martial, of lieges offending against Regulation.

2. The Governor in Council is hereby declared to be empowered to establish martial-law within the territories subject to the Government of the Presidency of Fort St. George, for any period of time while the British Government in India shall be engaged in war with any native or other power, as well as during the existence of open rebellion against the authority of the Government in

* Declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts—See Act XV of 1874, sec. 4.

† Certain words, repealed by Act XII of 1876, have been omitted.

any part of the territories aforesaid ; and also to direct the immediate trial by Courts-martial of all persons owing allegiance to the British Government, either in consequence of their having been born, of their having served under it in any capacity, or of their being resident within its territories and under its protection, who shall be taken in arms in open hostility to the British Government ; or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of conspiring with, or of openly aiding and abetting, the enemies of the British Government within any part of the said territories.

Punishment of lieges convicted by Court-martial of crime specified in section 2.

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligation of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court-martial during the establishment of martial-law, shall be liable to immediate punishment of death, and shall suffer the same accordingly by being hanged by the neck until he is dead. All persons who shall in such cases be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

Forfeiture of property.

Power to cause trial before ordinary Court.

4. The Governor in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial at any time before the ordinary Courts of Judicature.*

* Certain words, repealed by Act XII of 1876, have been omitted.

WIDOW BURNING.

REGULATION I. OF 1830.*

PASSED ON THE 2ND FEBRUARY, 1830.

A Regulation for declaring the practice of Sati, or of burning or burying alive the Widows of Hindus, illegal, and punishable by the Criminal Courts.

Preamble.

THE practice of sati, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature; it is no where enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist: in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted, to be in force‡ throughout the territories immediately subject to the Presidency of Fort St. George.

Sati declared illegal and punishable.

2. The practice of sati, or of burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

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* Declared to be in force in the whole of the Madras Presidency except as regards the Scheduled Districts—see Act XV of 1874, sec. 4. Compare Reg. XVII of 1829 of the Bengal Code.

‡ Certain words, repealed by Act XII of 1876, have been omitted.

3. *First.*—All zamindars, taluqdars or other proprietors of land, whether malguzari or lakhiraj, all sadr farmers and under-renters of land of every description, all dependent taluqdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing section; and any zamindar or other description of persons above noticed, to whom such responsibility is declared to attach who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Zamindars, &c., responsible for immediate communication to police of intended sacrifice.

Penalty in case of neglect.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the head of police shall either repair in person to the spot, or depute one of his subordinate officers, accompanied by one or more peons of the Hindu religion, and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed, in defiance of these remonstrances, to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and, in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

Police how to act on receiving intelligence of intended sacrifice.

Third.—Should intelligence of a sacrifice, declared illegal by this Regulation, not reach the Police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report

How to act when intelligence of sacrifice does not reach them until after it has taken place.

them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

Magistrate how to proceed against parties concerned.

4. *First.*—On the receipt of the reports required to be made by the heads of police under the provisions of the foregoing section, the Magistrate or Joint Magistrate of the jurisdiction, in which the sacrifice may have taken place, shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial.*

Persons abetting sacrifice guilty of culpable homicide.

Second.—It is hereby declared that, after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindu widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment,* according to the nature and circumstances of the case, and the degree of guilt established against the offender ; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.

Discretion of Judge to admit to bail, or not.

Third.—Persons committed to take their trial* for the offence above mentioned shall be admitted to bail or not at the discretion of the Criminal Judge, subject to the general rules in force in regard to the admission of bail.

Court of Faujdari Adalat may pass sentence of death in certain cases.

5. It is further deemed necessary to declare that nothing contained in this Regulation shall be construed to preclude the Court of Faujdari Adalat from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindu widow† while labouring under a state of intoxication or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the Court may see no circumstances to render him or her a proper object of mercy.

* Certain words, repealed by Act XII of 1876, have been omitted.

† 'Woman' in Clarke's edition.

PURCHASING FROM SOLDIERS.

REGULATION XIV. OF 1832.*

PASSED ON THE 21ST DECEMBER, 1832.

A Regulation for extending such part of the provisions of section 67 of the Act 4 Geo. IV, cl. 81, as relates to the penalties prescribed for purchasing clothes and other necessaries from Soldiers, throughout the Provinces subordinate to the Presidency of Fort St. George.

Preamble.

WHEREAS is has been found that the offence of selling regimental necessaries is prevalent among the Company's troops, and it is deemed expedient, in order to put a stop to this criminal practice, that the provisions contained in section 67 of the Act 4 Geo. IV, cl. 81,† for the punishment of persons purchasing clothes and other necessaries from soldiers, should be extended throughout the Provinces subordinate to the Presidency of Fort St. George, and should be made applicable to persons purchasing such articles from Native as well as from European troops, the following rules have been enacted.‡

Persons purchasing or receiving regimental necessaries from soldiers liable to fine.

2. *First.*—‡Any person who shall knowingly detain, buy or exchange, or otherwise receive from any soldier or deserter, Native as well as European, or any other person, upon any account or pretence whatsoever, any arms, clothes, caps or other furniture belonging to the East India Company,§ or furnished and provided for the use of any troops or forces, Native as well as European, serving with the forces of the said Company, or any meat, drink, beer or other provision provided under any Regulations relating thereto, or any such articles belonging to any such soldier or deserter as are generally deemed regimental necessaries according to the custom of the army, being provided for the soldier and paid for by deductions out of his pay, or shall cause the colour of any such clothes to be changed, shall, on conviction,‡ be sentenced for every such offence to pay a fine of forty‡ rupees.

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* Declared to be in force in the whole of the Madras Presidency except as regards the Scheduled Districts—See Act XV of 1874, sec. 4.

† Repealed by 3 & 4 Vic., cl. 87, sec. 59; now see the Army Act, 1881 (44 & 45 Vic., cl. 58.) sec. 156.

‡ Certain words, repealed by Act XII of 1876, have been omitted.

§ See 21 & 22 Vic., cl. 106, sec 64.

Second.—* Any person who shall buy or receive any grain, hay, straw or other forage provided for the use of any horse or horses belonging to the Company's service, from any trooper or other soldier, Native as well as European, knowing him to be such, or shall move, procure, counsel or solicit any such trooper or other soldier, knowing him to be such, to sell or otherwise dispose of any such grain, hay, straw or other forage as aforesaid shall, on conviction, be sentenced for every such offence to pay a fine of forty* rupees.

Persons purchasing articles of forage from troopers or other soldiers liable to fine.

Third.—Upon payment of the fines adjudicable under the provisions of clauses first and second of this section, one moiety thereof shall be given to the informer; and the said fines shall be commutable, if not paid, to imprisonment for three months.

Moiety of fine to informer.

Commutation to imprisonment.

MADRAS PIER.

ACT NO. V. OF 1863.‡

PASSED ON THE 8TH JUNE, 1863.

An Act to prevent damage to the Madras Pier; to regulate the traffic; and to provide for the levying of tolls upon the same.

WHEREAS it is expedient to make rules and regulations for the purpose of preserving order upon the Madras pier, and for preventing damage thereto, and to provide for the levying of tolls upon the same: It is enacted as follows :—

Preamble.

1. Tolls according to such rates as shall from time to time be settled or approved by the Governor of Madras in Council shall be levied upon all persons, carts, carriages, merchandise, baggage and other articles, and upon all cattle and other animals landed at, or shipped from, or otherwise making use of, the said pier.

Tolls to be levied on persons, &c., using Madras pier.

2. The said rates of tolls, when so settled or approved as aforesaid, shall, one week at least before the same shall take effect, be published in the Govern-

Notification of tolls.

* Certain words, repealed by Act XII of 1876, have been omitted.

‡ Madr. Act VII of 1871 is to be read with, and taken as part of, this Act.

The provisions of this Act were extended to the Calicut pier by Notification, dated 20th September, 1878—See Fort St. George Gazette, 24th September, 1878, p. 551; and to the Tuticorin pier by Notification No. 14, dated 27th July, 1885—See Fort St. George Gazette, 7th August, 1885, p. 527.

ment Gazette, and shall also be legibly painted in the English, Tamil and Telugu languages, on boards exhibited in a conspicuous place at the entrance of the said pier, and also at the pier head.

Appointment of toll-keeper and his establishment.

3. A toll-keeper shall be appointed with an establishment (all and every of whom shall wear a distinguishing badge), whose duty it shall be to take the lawful tolls, settled or approved and published as aforesaid, to pay the same into such treasury, and keep such accounts as Government may from time to time prescribe.

Illegal collection of tolls.

4. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll upon the said pier, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure and sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be deemed to have committed the offence of cheating, and shall be liable to such punishment as is prescribed for that offence by the Indian Penal Code.

Penalty for non-payment of toll, &c.

5. Any person who shall evade payment of the lawful toll, or who shall force his way into or upon the said pier without paying the same, or who being upon the said pier shall refuse to pay the same, or who shall force, or attempt to force, his way off, or from, or out of, the said pier without paying such lawful toll, or who shall assault or in any way obstruct any toll-keeper or any of his assistants in the execution of their duty under this Act, shall be punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to rupees five hundred, or with both.

Penalty for wilfully damaging pier.

6. Any person who shall unlawfully and maliciously damage the said pier or any of its appurtenances, fixed or moveable, shall be punishable under section 426 or 427 of the Indian Penal Code, according to the amount of loss or damage caused by such mischief; that is, with imprisonment of either description for a term which may extend to three months, if the damage caused be not above the amount of fifty rupees, or to two years, if the damage be of greater amount than fifty rupees, or with fine, or with both.

Penalty for cutting adrift, &c., any boat, &c., made fast to pier.

7. Any person who shall unlawfully and maliciously cut, sever, or unfasten, or who shall otherwise injure, any rope, chain or other fastening by which any boat, barge or raft shall be made fast to the said pier, or to any buoy near the same, or who shall cut or send adrift

any buoy that shall be laid down near the said pier, shall be punishable under section 426 or 427 of the Indian Penal Code, according to the amount of loss or damage caused by such mischief; that is, with imprisonment of either description for a term which may extend to three months, if the damage caused be not above the amount of fifty rupees, or to two years, if the damage be of greater amount than fifty rupees, or with fine, or with both.

Goods on pier may be seized till tolls are paid, and sold if payment is refused.

8. It shall be lawful for the said toll-keeper, or any of his assistants, to detain any merchandise, baggage or other articles landed at, or to be shipped from, the pier, until the lawful tolls are paid; and in the event of such payment being refused or with held or delayed for the space of one week, if the owner or consignee of such goods be in Madras (or otherwise for the space of one calendar month), it shall be lawful for Government to sell or cause to be sold by public auction the said merchandise, baggage or other articles, and after paying all expenses attendant on such seizure, detention and sale, to hold the proceeds (minus double the dues by way of a fine) at the disposal of the owner or consignee of the goods.

Vessels fouling pier.

9. If any ship or vessel shall foul the pier and thereby occasion damage thereto, the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be, and, upon the amount of such damage being proved before a Magistrate to his satisfaction, it shall be lawful for such Magistrate to make an order upon the master or owners of such ship or vessel for the payment of such amount, and if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owners or agents, or to the master or other officer of such ship or vessel (or forthwith if the Magistrate shall so order), it shall be lawful for the Conservator of the Port of Madras to levy the amount thereof by distraining in manner hereinafter provided, or, if necessary, by seizure and sale of such vessel.

Penalty for non-payment of fines, &c.

10 If any vessel or the master or owners of any vessel shall become liable under the provisions of this Act to pay any sum of money either by way of fine or penalty, or for the purpose of making good any damage, and the same shall not be paid within twenty-four hours after demand or after notice of such liability (or forthwith if the Magistrate before whom the complaint for the recovery of such fine, penalty or amount of damage shall be made shall so order), then and in every such case it shall be lawful for the Conservator of the Port of Madras to distrain or cause to be distrained any goods or merchandise, to whomsoever the same may

belong, on board such vessel, and any tackle, apparel or furniture belonging to such vessel, and to remove the same to some convenient place, leaving on board such vessel notice in writing of such distress, and of the cause thereof, and of the place of removal; and if such sum of money, together with the cost of such distress and removal, be not paid within three days after the seizure, exclusive of the day of seizure, the said Conservator may cause the goods, merchandise, tackle, apparel and furniture so seized to be sold, and out of the proceeds of such sale shall pay to Government the said sum which the said vessel or the owners thereof were liable to pay under the provisions of this Act, together with the reasonable costs of such seizure, detention and sale, rendering to the owner or agent or master or other person having the command of such vessel the overplus, if any, on demand.

Power to lay rails across road between pier and custom-house.

11. It shall be lawful for Government to lay rails or tramways across the Beach road between the pier and the custom-house, and to erect railings on each side of such tramway, with gates to be closed for the protection of the public when vans are proceeding along such tramways.

Penalty for forcing way through gates.

12. Any person who shall force his way through any of such gates when so closed as aforesaid shall be deemed to have committed the offence of criminal trespass, and shall be punishable under section 447 of the Indian Penal Code, namely, with imprisonment of either description for a term which may extend to three months, or with fine which may extend to rupees five hundred, or with both.

Power to remove obstructions.

13. It shall be lawful for any Police-officer or constable, or officer acting under the provisions of this Act, to remove summarily all obstructions in or near the approaches to the pier.

Power to pass bye-laws.

Penalty for breach of bye-laws.

14. It shall be lawful for the Governor of Madras in Council to pass bye-laws which shall be published in the Government Gazette for the enforcement of any of the following matters, and any person infringing the same shall, on conviction by a Magistrate, be liable to a penalty not exceeding twenty-five rupees, and in default of payment to imprisonment for a period not exceeding one calendar month.

1st.—For regulating the approach of boats, barges and rafts to the pier, and for loading and unloading the same.

2nd.—For preventing damage to the pier by boats lying alongside.

3rd.—For regulating the admission of coolies to the pier.

4th.—For the prevention of accidents from fires and lights on the pier.

5th.—For regulating the traffic along the pier.

6th.—For fixing the hours at which the pier shall be open to the public, whether for goods or for passengers.

7th.—For all other purposes not inconsistent with the provisions of this Act.

Cognizance of offences.

15. All offences against the provisions of this Act shall be cognizable by any Magistrate of Police for the Town of Madras.

Interpretation-clause.

16. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "toll-keeper" shall include the assistants of the toll-keeper.

17. *Commencement of Act. Rep by Act XII of* 1873.

Short title.

18. This Act may be cited for all purposes as the "Madras Pier Act, 1863."

M. ACT NO. VII. OF 1871.

Received the Governor's assent on the 7th February, 1871, *and the Governor General's assent on the* 19*th July*, 1871, *and took effect from the* 1*st September*, 1871.

An Act to amend Madras Act V of 1863 (*An Act to prevent damage to the Madras Pier; to regulate the traffic, and to provide for the levying of tolls, upon the same*), *and to provide for its extension to other Piers.*

Preamble.

WHEREAS it is expedient to amend Madras Act V of 1863 (*An Act to prevent damage to the Madras Pier; to regulate the traffic, and to provide for the levying of tolls upon the same*), by providing for the recovery of damages for injury done to the Madras Pier by any floating matter; and to enable the said act to be extended to other piers within the Presidency; It is enacted as follows:—

Interpretation-clause.
"Drift."

1. The term "drift" shall be taken to mean all boats, timber or other floating matter, whether the same are, at the time they come into collision with the Madras Pier, in possession or under the control of any person, or not:

"Owner." The term "owner" shall include consignee:

"Magistrate." The term "Magistrate" shall include a Magistrate of the Town Police.

Recovery of damages for injury to pier by drift.

2. Whenever any drift shall foul the pier and thereby cause damage thereto, it shall be lawful for the Conservator of the port of Madras to seize such drift; and the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be;

and, upon the amount of such damage being proved before a Magistrate to his satisfaction, it shall be lawful for such Magistrate to make an order upon the owner of such drift for the payment of such amount;

and, if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owner, it shall be lawful for the Conservator of the port of Madras to sell the whole or any portion of such drift in the manner prescribed by section 10 of the said Act;

and out of the proceeds of such sale he shall pay to Government the sum ordered to be paid by the Magistrate, together with the reasonable costs of such seizure, detention and sale, rendering to the owner of such drift the surplus, if any, on demand.

Sale of drift and disposal of sale-proceeds.

3. When the owner of such drift is unknown or cannot be ascertained, it shall be lawful for the Magistrate to make a general order for the payment of the ascertained amount of damage; and a copy of such order shall be posted up in a conspicuous place at the custom-house; and, at the expiration of twenty-four hours after such copy has been posted up, it shall be lawful for the Conservator of the port of Madras to sell such drift, and to pay over to Government the proceeds of such sale.

Any surplus which may exist after payment of the amount ordered by the Magistrate, and of the reasonable cost of seizure, detention and sale, and which may remain unclaimed by the owner after twelve months from the date of sale, shall be credited to the Port Fund.

Procedure in case of drift owned by several persons.

4. When any drift which has fouled and damaged the Madras Pier is the property of several owners, it shall be lawful for the Magistrate to make a general order upon all such owners for payment of the ascertained amount of damage;

and thereupon it shall be lawful for the Conservator of the port of Madras to sell the whole or any part of such drift, and to make such payment to Government as is prescribed in section 2 of this Act, and to divide the surplus among the several owners of such drift by paying to each a sum which shall bear the same proportion to the whole sur-

plus as the portion of such drift belonging to each such owner shall bear to the entire value of the whole drift.

Liability of owner of unsold part of drift to pay to owner of part sold.

5. Where any such general order has been made under the preceding section, the owner or owners of any part of such drift, which has remained unsold shall be liable to contribute to the owner or owners of such drift as has been sold, by paying to him or them a sum which shall bear the same proportion to the whole amount paid over to Government, as the value of the drift unsold bears to the value of the whole drift liable to be sold.

Magistrate's certificate as to amount payable by and to each owner of drift.

6. It shall be lawful for the Magistrate, by whom the amount of damage is ascertained, to certify, by an order under his hand, what amount of contribution is payable by and to each of the several owners of such drift; and the amount so certified shall be recoverable by a civil suit; and such order shall be conclusive evidence of the liability to pay the amount so certified.

Power to extend Act to other piers.

7. It shall be lawful for the Government of Madras to extend the provisions of this Act and of Madras Act V of 1863 to any other pier* within the said Presidency, by notification in the *Fort St. George Gazette* and in the Gazette of the district in which such pier may be situate.

Construction of Act.

8. This Act shall be read with, and shall form part of, Madras Act V of 1863.

*Extended to the Calicut pier—see *Fort Saint George Gazette*, dated 24th Sept. 1878, page 551; and the Tuticorin pier—see *ibid*, dated 7th August, 1885, Part I, page 527.

LABOUR CONTRACTS WITH NATIVES.

ACT NO. V. OF 1866.*

PASSED ON THE 6TH OCTOBER, 1866.

An Act to regulate the manner of engaging and contracting with Nativ inhabitants, within any of the districts subject to the Government of Fort St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras.

Preamble.

WHEREAS it is expedient to regulate the manner of engaging an contracting with Native inhabitants within an of the districts subject to the Government o Fort Saint George for labour to be performed in any part of Indi beyond the territorial limits of the Presidency of Madras; It is enacte as follows :—

Interpretation-clause.

1. The following words and expressions in this Act shall hav the meanings hereby assigned to them, unles there be something in the subject or conte repugnant to such construction, that is to say :—

"Contractor."

The word "contractor" in this Act shall be taken to mean as we a person who contracts for the supply labourers to others, as a person who emplo recruiters to engage and supply labourers for the purpose of servin such person himself :

"India."

The word "India" shall denote the territories vested in Her M jesty by the Statute 21 & 22 Vic., cap. 10 entitled "An Act for the better Governme of India," and also all Native States and Foreign Dependencies with such territories.

Contracts for labour in India out of Madras Presidency unlawful, except under Act.

2. Except under and in conformity with the provisions of th Act, it shall not be lawful to make any contra with any Native inhabitant of India with the town of Madras or any of the distri subject to the Government of Fort St. Geor for labour to be performed in any part of India beyond the territor limits of the Presidency of Madras :

* Rep. by Act III of 1876, sec. 2, as to engagements made after the passing that Act in the Presidency of Madras for labour to be performed in Lower Burma, as to the emigration of Natives of India from that Presidency to Lower Burma.

Saving of contracts of Native seamen.

Provided that nothing in this Act shall apply to any contract of any Native seaman or other person who of his own free will shall contract to navigate or serve on board any vessel, or who shall embark on board such vessel in pursuance of such contract, or to any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant.

Appointment of protectors.

Protectors deemed public servants.

3. It shall be lawful for the Government of Fort Saint George from time to time to appoint such persons as they shall deem fit to act as protectors of labourers under this Act within such limits as the said Government may declare ; and every protector of labourers shall be held to be a public servant within the meaning of the Indian Penal Code.

General duties of protector.

4. The protector of labourers, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid, with his advice or otherwise, all labourers under contract in pursuance of this Act.

Protector to license contractors or recruiters.

5. The protector of labourers shall license so many fit persons as shall seem to him to be necessary as contractors or recruiters of labourers within his jurisdiction, and shall assign to each such contractor or recruiter a district or districts wherein he may engage labourers ; and no person shall act or be employed as a contractor or recruiter of labourers except under a license from the protector of labourers.

Duration of license, and cancelment for misconduct.

6. Every license shall be in force for a period of one year ; but, in case of misconduct on the part of any contractor or recruiter, the protector of labourers may cancel his license before the expiration of the period for which it is granted.

Form of contractor's license.

7. Every license to a contractor shall be in the form set forth in the Schedule A to this Act annexed.

Fee therefor.

For every such license there shall be paid to the protector of labourers a fee of one hundred rupees.

Form of recruiter's license.

8. Every license to a recruiter shall be in the form set forth in the Schedule B to this Act annexed.

Fee therefor.

For every such license there shall be paid to the protector of labourers a fee of ten rupees.

Recruiters to wear badge.

9. Every person holding a license as a recruiter of labourers shall wear conspicuously a badge bearing the inscription of recruiter of labourers in the vernacular language of the town, district or districts in which he is licensed to engage labourers.

Natives engaging to labour not to leave districts without appearing before protector.

10. Every Native inhabitant of India who shall in the town of Madras or in any district within the Presidency of Madras enter into any engagement with a contractor or recruiter of labourers shall, prior to leaving the town of Madras or the district within which the engagement was entered into, appear with the contractor or recruiter before the protector of labourers of the town of Madras or of such district; and no contractor or recruiter shall remove such labourer from the said town of Madras or district until he shall have so appeared.

Examination and registration.

Upon so appearing, the protector of labourers shall examine the labourer with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into and that he is willing to fulfil the same, and if it appears that the contractor or recruiter has authority to enter into the engagement, the protector of labourers shall register, in a book to be kept for the purpose, in such form as the Government of Fort St. George shall prescribe, the name, name of the father and the age of such labourer, and the name of the village or place of which such labourer is a resident, the name of the district to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the labourer and the contractor or recruiter.

If the protector of labourers shall be of opinion that the labourer does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, or if the protector of labourers shall be of opinion that the labourer is in a state of health which makes him unfit to under take the journey which he is about to commence, he shall refuse to register his name.

A copy of every registration under this section, on substantial paper which shall not require a stamp, shall be furnished by the protector of labourers to the labourer registered.

Fee for registration.

11. For the registration of every labourer the contractor or recruiter shall pay to the protector of labourers a fee of one rupee.

12. If any labourer shall, without good and sufficient cause, refuse or neglect to proceed to the place at which the contract is to be performed, it shall not be lawful to compel him to proceed to, or detain him at, any place against his will; but nothing in this section shall be taken to diminish or affect in any way the legal liabilities, civil or criminal, of such labourer, incurred by him by reason, or in respect, of his refusal or neglect aforesaid.

Labourers refusing to proceed to place of labour not to be compelled to do so.

Every case in which a labourer is charged before a Magistrate of the town of Madras with refusing or neglecting to proceed as aforesaid shall be heard and determined by such Magistrate in a summary manner;

Hearing of charges against labourers.

and every such labourer shall, on conviction, be punished in the manner provided in section 492 of the Indian Penal Code for the punishment of offences under that section.

Punishment on conviction.

13. Every contractor or recruiter licensed under this Act shall, if called on to do so by the protector of labourers by whom he is licensed, or by any protector of labourers within whose jurisdiction labourers recruited under the provisions of this Act may be detained previous to being conveyed to the place at which the contract is to be performed, establish a depot in a place to be approved of by such protector of labourers.

Contractors or recruiters to establish depots, and receive and maintain labourers therein.

Every such depot shall be kept up by the contractor or recruiter for the reception of labourers to be supplied or forwarded by or through him.

All such labourers shall, on their arrival at, or in the neighbourhood of, the depot so established by the contractor or recruiter by, through, or for, whom they have been engaged or forwarded, be at once taken to, and received into it, and shall be entitled to receive in such depot, at the expense of such contractor or recruiter, suitable lodging, food, clothing and medical attendance, until such labourers shall be declared by the protector of labourers to be no longer entitled thereto.

Every such depot as aforesaid shall be under the supervision of the protector of labourers, and shall be open to his inspection at all times, and shall be managed and regulated by the contractor or recruiter in accordance with such rules as the protector of labourers may, with the sanction of the Government of Fort Saint George, from time to time, lay down in that behalf. Every labourer recruited under the provisions of this Act shall be conveyed with all convenient despatch to the place at which the contract for labour is to be performed.

14. Whenever labourers hired under this Act are about to embark on board of any vessel, it shall be the duty of the protector of labourers who may be stationed at the port of embarkation to satisfy himself that the vessel has sufficient accommodation for the number of labourers who are about to be embarked, and that reasonable provision has been made for their maintenance and comfort on the voyage; and thereupon he shall sign a written authority to the master of the vessel to proceed upon such voyage, with the number of labourers specified therein.

Duty of protector prior to embarkation of labourers.

Any contractor or recruiter of labourers who shall embark any labourers hired under this Act, and any master of any vessel who shall receive any such labourers until such written authority has been obtained or in excess of such authority, or who shall afterwards receive on board such passengers or cargo as shall unreasonably diminish the space necessary for the comfort or accommodation of such labourers, shall be liable to a fine not exceeding five hundred rupees.

Penalty for embarking without authority, and for receiving passengers or cargo tending to incommode labourers.

15. All fees received by any protector of labourers shall be accounted for to Government in such manner as the Governor of Fort Saint George in Council may direct.

Fees to be accounted for to Government.

16. Whosoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native inhabitant of India for labour to be performed in any place in India beyond the territorial limits of the Presidency of Madras, shall be deemed to have committed the offence specified in section 363 of the Indian Penal Code;

Penalty for making unlawful contract for labour.

and whoever shall aid in or abet the making of any such contract shall be deemed to have abetted the commission of that offence.

Abetting such contracts.

17. Whoever, not being a contractor or recruiter licensed under this Act, shall act or be employed as a contractor or recruiter of labourers, or shall, contrary to the provisions of this Act, within the town of Madras or within any district subject to the Government of Fort Saint George, enter into any contract with a Native inhabitant of India for labour to be performed in any place in India beyond the territorial limits of the Presidency of Madras shall be liable to a fine not exceeding five hundred rupees.

Penalty for recruiting without license.

18. Whoever, being a licensed contractor or recruiter under this Act, shall remove any labourer whom he may engage in the town of Madras or in any district or place, from such town, district or place

Penalty for contractor or recruiter failing to take labourers before protector;

without such labourer having appeared with the contractor or recruiter before the protector of labourers in order that such person meant be examined and registered ;

and whoever shall, by means of intoxication, violence, fraud or false pretences, induce any Native inhabitant of India to enter into any contract within the town of Madras or any district subject to the Government of Fort Saint George for labour to be performed in any place in India beyond the territorial limits of the Presidency of Madras, or to proceed to any such place without having entered into any contract, shall be liable to a fine not exceeding five hundred rupees.

for inducing contract by fraud, &c.

19. Whoever, being a duly licensed contractor or recruiter, shall forward or send any labourer from the town of Madras or from any district in which he has entered into any engagement, without such labourer having been duly registered in accordance with section 10 of this Act, and whoever, being a duly licensed contractor or recruiter, shall induce or knowingly permit any such labourer to leave the town of Madras or any district in which he has entered into any engagement, without the labourer being duly registered as aforesaid, shall be liable to a fine not exceeding five hundred rupees.

Penalty for forwarding labourers, or allowing them to go, without being registered.

20. All prosecutions under this Act shall be instituted, on information laid at the instance of the protector of labourers, before a Magistrate of Police, or before a Magistrate of the district, according as they shall be instituted for offences committed within, or for offences committed beyond, the limits of the town of Madras.

Prosecutions where and how to be instituted.

All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the officer imposing the fine.

Levy of fines.

When a warrant of distress is issued, the said officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before such officer on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance ; but if, before issuing such warrant of distress, it shall appear to the officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress ;

and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labour, for any term not exceeding two months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months where the amount shall not exceed one hundred rupees, or for any term not exceeding six months in any other case; the commitment to be determinable, in each of the cases aforesaid, on payment of the amount.

The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

Commencement.

21. This Act shall come into operation on the first day of November, 1866.

SCHEDULE A.

(*Referred to in section 7.*)

CONTRACTOR'S LICENSE.

Office of the Protector of Labourers at

A. B. is hereby licensed, under (Madras) Act V of 1866, to be a contractor for engaging persons in the district (*or* districts) of to proceed to any part of India beyond the territorial limits of the Presidency of Madras for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the day of 18 .

(*Signed*) *E. F.*,
Protector of Labourers.

SCHEDULE B.

(*Referred to in section 8.*)

RECRUITER'S LICENSE.

Office of the Protector of Labourers at

C. D. is hereby licensed, under (Madras) Act V of 1866, to be a recruiter for engaging person in the district (*or* districts) of to proceed to any part of India beyond the territorial limits of the Presidency of Madras for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the day of 18 .

(*Signed*) *E. F.*,
Protector of Labourers.

PLACES OF PUBLIC RESORT ACT.

M. ACT NO. II. OF 1888.

PASSED ON THE 31ST MAY 1888.

An Act to provide for the Inspection and Licensing of Places of Public Resort and Entertainment.

WHEREAS it is expedient to provide for the inspection of places of public resort and entertainment, and for the licensing of the same by competent authority : It is hereby enacted as follows :—

Preamble.

Short title.

1. (1) This Act may be called the "Places of Public Resort Act, 1888."

Commencement.

(2) It shall come into force upon the passing thereof.

Local extent.

(3) It extends to all towns in the Madras Presidency which have been or may hereafter be declared to be municipalities under Madras Act IV of 1884, or other Act of the same nature for the time being in force, and the Governor in Council may, from time to time, by notification in the *Fort St. George Gazette*, extend it permanently or for a time or for specified occasions only, from such date as may be specified in the notification, to any other local area in the Presidency of Fort St. George outside the limits of the Municipality of Madras, and may cancel or modify any such notification.

Saving.

(4) Nothing in this Act shall apply to any church, temple, mosque, or other place of public worship.

Definitions.

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

"Chairman of a Municipal Council" means the Chairman of a Municipal Council appointed under Madras Act IV of 1884, or other Act relating to District Municipalities in the Presidency of Fort St. George for the time being in force.

"Magistrate" means a Magistrate appointed under the Code of Criminal Procedure.

"Building" includes any house, hut, shed or roofed enclosure.

3. Within any area in which this Act is in force, no enclosed place or building, whether permanent or temporary, having an area of 500 square feet or upwards, shall be used for public resort or entertainment, unless a license has been previously obtained in the manner hereinafter provided.

No enclosed place or building with area of 500 square feet to be used for public resort without a license.

4. When any person desires to obtain a license to use any enclosed place or building for public resort or entertainment, or to construct any enclosure or building for such purpose, he shall send an application to the authority named in section 5, setting forth the name of the owner of the place or building, its situation, size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or is proposed to be permanent or temporary, and the purpose for which it is proposed to be used.

Application for license what it must contain.

5. Such appliation shall be made to the Chairman of the Municipal Council, if the enclosed place or building, is within a municipal town, and in every other case to any Magistrate having jurisdiction over the local area in which the place or building is situated.

Authority to whom application should be made.

6. Upon the receipt of any such application, the authority to whom application is made shall inspect the place or building in respect of which a license is required, and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building, or in the precautions for the safety of the public to be assembled therein, and may refuse to grant a license until the alteration or addition is made.

The authority shall inspect and may require addition or alteration to place or building.

When authority to grant license.

7. If the authority is satisfied—

(*a*) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed ;

(*b*) that no objection, arising from its situation, ownership, or the purpose proposed, exists,

he shall give to the applicant a written license, signed by him, specifying the enclosure or building and the purpose for which it is to be used. Such license shall be in such form and subject to such fee and conditions as the Governor in Council may from time to time by rule direct.

If the authority is not satisfied as aforesaid, he may refuse to grant a license, recording his reasons for refusal in writing.

License to state period for which it is to be in force.

8. Every license granted under this Act shall state the period for which it is to continue in force, and shall cease to be in force on the expiration of that period.

Revocation or suspension of license.

9. Any authority granting a license under this Act may, for reasons recorded in writing, revoke or suspend the same when he has reason to believe—

(*b*) that the license has been fraudulently obtained ;

(*a*) that the enclosed place or building has been used for other purposes of public resort or entertainment than that for which the license was granted ;

(*c*) that the place or building can no longer be safely used for the purpose for which the license was granted.

Appeal against order under section 6, 7, or 9.

10. (1) Any applicant for a license under this Act may appeal from any order made under section 6, 7, or 9 unless such order has been made by the Magistrate of the district.

(2) The appeal shall be made within 30 days from the day on which the applicant received the order appealed against.

(3) In a municipal town the appeal shall lie to the Municipal Council, and in every other local area to the Sub-divisional Magistrate, or if the original order was made by a Sub-divisional Magistrate, to the Magistrate of the district.

(4) The appellate authority shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the authority to whom application is made under section 5, and may cancel or grant or withhold the license or make such other order as it thinks fit.

Power to enter place of public resort to inspect license or to prevent further use.

11. It shall be lawful for any Magistrate or officer of Police in charge of a station or of higher rank than Head Constable to enter at any time any enclosure or building for which license is required under this Act, to inspect the license if any has been issued, and, if there is no license or if the conditions of the license are not observed, and if he sees reason to apprehend imminent danger to the public, to prevent the further use of such enclosure or building as a place of public resort or entertainment.

District Magistrate may revise any proceedings under this Act.

12. The District Magistrate may call for and examine the record of any proceeding taken under this Act, may call for any report in connection there with, may make or cause to be made any further in-

quiry, and may pass any order which the authority holding the proceeding might have passed.

Penalties.

13. Every person who, having the immediate control of any enclosed place or building, permits it to be used for public resort or entertainment without having obtained a license, or, having obtained a license under this Act, permits such use in contravention of any of the conditions of such license, shall be liable, on conviction before a Magistrate, to fine which may extend to five hundred rupees.

Power to make rules.

14. The Governor in Council may, at any time after the passing of this Act, and from time to time, make rules consistent with this Act, for carrying out the purposes thereof, and may amend or cancel the same. All such rules shall be published in the *Fort St. George Gazette*, and shall come into force on the day on which they are so published or on such later date as may be specified in the notification publishing them.

DISTRICT MUNICIPALITIES ACT.

[*EXTRACTS.*]

ACT NO. IV. OF 1884.

Received the Governor's assent on the 7th May, 1884, *and the Governor-General's assent on the 2nd July*, 1884.

WHEREAS it is expedient to make better provision for the organization and administration of district municipalities in the Presidency of Fort St. George, for the conservancy and improvement thereof, for the diffusion of education therein, and for other objects of public utility calculated to promote the health, comfort and convenience of the inhabitants of the said municipalities; It is hereby enacted as follows :—

Preamble.

3.—VACCINATION.

129. Every municipal council shall make provision for the gratuitous vaccination of all persons residing within the municipality—

Provision for vaccination.

(i) by employing an adequate staff of duly qualified vaccinators, and

(ii) by making suitable provision for, and defraying the charges of maintaining, a supply of vaccine-lymph, and such public vaccinating stations as may be necessary.

130. The Governor in Council may, by a written license, authorise any medical practitioner or other person to perform the operation of vaccination, and may at any time suspend or cancel any such license.

Licensed vaccinator.

131. No fee or remuneration shall be charged by any public vaccinator for any vaccination performed or certificate given under this Act.

No fee to be charged for vaccination by any public vaccinator or for certificates.

132. (1) The parent or guardian of any child successfully vaccinated may require from the public vaccinator a certificate to the effect that the child has been successfully vaccinated, and the public vaccinator shall furnish such certificate.

Certificate of vaccination.

(2) If the public vaccinator is of opinion that a child who has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect.

Certificate when child is insusceptible of vaccination.

Compulsory Vaccination.

133. (1) The Governor in Council may, by notification, declare that vaccination shall be compulsory in any municipality from a date to be specified in such notification, and may from time to time, in like manner, cancel or modify such declaration.

Governor in Council may declare vaccination compulsory.

(2) On the publication of the said notification, the municipal council shall cause to be proclaimed by beat of drum and by notification in the District Gazette that vaccination is compulsory in such municipality.

Municipal council to proclaim that vaccination is compulsory.

134. The parent or guardian of any unprotected child who is more than six months old but is under ten years of age, and who has resided within the limits of such municipality for a period of six months after such proclamation, shall take or cause it to be taken to a vaccinator or shall procure its vaccination by a vaccinator.

Unprotected child to be vaccinated.

135. (1) The vaccinator shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate to the effect that the child is in a state unfit for vaccination.

Vaccinator to deliver certificate of postponement.

(2) A certificate granted under this section showing the unfitness of a child for vaccination shall remain in force for such period not exceeding three months as shall have been stated therein; and on the termination of that period the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator, and shall subsequently cause it to be inspected in the manner hereinafter provided:

Procedure when child is unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate shall be renewed.

Renewal of postponement-certificate.

136. The vaccinator shall, if he finds the child to be in a state fit for vaccination, vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the

Vaccinator to vaccinate child.

on which the child is to be inspected in order to ascertain the result of the operation.

Inspection after vaccination.

137. (1) The parent or guardian of every child which has been vaccinated under the last preceding section shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or shall procure its inspection by a vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

(2) When it is ascertained, at the time of inspection under this section, that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

(3) When it is ascertained that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated, and shall subsequently cause it to be inspected in the manner provided in sub-section (1) of this section.

Certificate of insusceptibility.

(4) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Notice to parent or guardian of unprotected child, &c.

138. (1) The chairman, or some person or persons authorised by him in that behalf, shall ascertain whether all the children under the age of ten years within the municipality have been vaccinated or are unprotected; and, if the chairman or any person authorised by him has reason to believe that the parent or guardian of any unprotected child is bound by the provisions hereinbefore contained to procure the vaccination of such child or present it for inspection and has omitted so to do, he shall go to the house of such parent or guardian and there make inquiry, and shall, if the fact is proved to his satisfaction, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated or (as the case may be) that it be presented for inspection at a time and place to be specified in the notice.

If notice is disobeyed, magistrate to direct obedience.

(2) If such notice is not complied with, the chairman or such person shall send a report on the matter to the Magistrate, who shall summon the parent or guardian of the child and demand his explana-

tion, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Person disobeying order liable to penalty.

(3) If on such date the order passed as aforesaid has not been obeyed, the Magistrate shall summon the parent or guardian before him, and shall, if no just cause or excuse is shown for such disobedience, sentence such parent or guardian to a fine not exceeding rupees fifty ; and such parent or guardian shall be liable to a further fine not exceeding rupees ten for every day during which the order under this section may not be obeyed by him.

Provision as to person who does not appear in public.

139. Notwithstanding anything hereinbefore contained, if any unprotected child or the parent or guardian of such child is a female who, according to the customs of the country, does not appear in public, the chairman, or any person authorised by him in that behalf, shall direct a vaccinator to visit the house of such parent or guardian and there to deal with the child in accordance with section 134, 135, 136, or 137.

Penalty for signing a certificate by unlicensed vaccinator.

140. Whoever, after a notification has been issued under section 133 (1) not being a vaccinator under this Act, wilfully signs or makes a certificate purporting to be a certificate granted under this Act shall be liable to a fine not exceeding rupees five hundred.

Penalty for signing a false certificate.

141. Whoever, being a vaccinator, wilfully signs or makes, or procures the signing or making of, a false certificate, or, being bound to grant a certificate under this Act, refuses or neglects to grant the same, shall be liable to a fine not exceeding rupees one hundred.

Prohibition of inoculation.

142. In every municipality inoculation is hereby prohibited ; and

Inoculated persons not allowed to enter any town or local area subject to this Act.

no person who has undergone the operation of inoculation shall enter any municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorise to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Whoever contravenes the provisions of this section shall be liable to simple imprisonment for a term not exceeding three months, or to a fine not exceeding rupees two hundred, or to both.

* * * * *

149. The owner or occupier of any building or land in which water supplied under this Act is wasted or misused from negligence or other circumstances under the control of the said owner or occupier, or used in excess of the quantity fixed by the chairman under section 147, or used for any purpose* other than those agreed on, or in whose building or land the pipes, works and fittings for the supply of water are found to be out of repair to such an extent as to cause waste of water, and who, having knowledge thereof, omits to give reasonable notice thereof to the chairman, shall be liable to a fine not exceeding rupees twenty for every such neglect, misuse, breach or omission, and shall also pay such costs of the prosecution as shall be awarded.

Penalty for waste or misuse of water.

150. (1) Whoever trespasses upon land belonging to the municipal council, along which the water-supply channel is conducted, or the buildings or premises connected with the water-supply, shall be liable to a fine not exceeding rupees twenty.

Penalty for trespassing on channel land, &c.

(2) If any such person refuses to leave such land, buildings or premises, on being requested to do so by any servant of the municipal council, or by any one authorized in that behalf by the municipal council, such person shall be liable to a further fine not exceeding rupees fifty, and may be removed from such land or buildings or premises by such servant or other person.

Penalty for refusing to leave land, &c., trespassed upon.

151. Whoever—

(i) unlawfully breaks, injures or causes damage to any public channel, tank, reservoir, cistern, well, fountain, stand-pipe or other work connected with the water-supply, or without due authority opens or removes any lock, cock or pipe belonging to or under the management or control of the municipal council, or

Damaging works.

(ii) unlawfully draws off or takes water from any water-works belonging to the municipal council or under their management or control,

Diverting water.

shall, for every such offence, be liable to a fine not exceeding rupees twenty, and a further fine not exceeding rupees ten for each day during which the offence is continued after notice in that behalf.

Penalty.

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* Query "purposes."

(*a*) *Fouling of Water.*

152. Whoever, being the owner or occupier of any place where any offensive trade or manufacture is carried on, does any act whereby the water in any stream, tank, reservoir, well, cistern, aqueduct or other work belonging to or under the control of the municipal council is fouled, shall be liable to a fine not exceeding rupees five hundred, and to a further fine not exceeding rupees one hundred for every day during which the offence is continued after twenty-four hours' notice from the municipal council.

Water fouled by offensive trades.

Penalty.

* * * * *

155. Whoever—

(i) bathes in or any other manner fouls the water in any part of any river, stream, channel, water-course, pipe, tank, spring, well or other place set apart by the municipal council, or, in the case of private property, by the owner thereof, for drinking purposes, or

Penalty for fouling drinking water.

(ii) washes an animal or clothing in a place set apart for bathing, or washes any cooking utensil or wool, skins or other foul or offensive substance in a place set apart for washing clothes or for bathing, or

Washing animals or offensive things, &c.

(iii) puts therein any rubbish, filth or other offensive matter, or

Throwing in rubbish, &c.

(iv) causes or suffers to drain, or to be brought into any such place the water of a sink, sewer, drain, engine or boiler, or other offensive matter belonging to him or flowing from any building or from any ground belonging to, or occupied by, him,

Allowing drain water or offensive liquid matter to flow.

shall be liable to a fine not exceeding rupees twenty for each offence.

Penalty.

172. (1) The municipal council shall, during the construction or repair of any street, drain or other premises vested in them, take proper precaution for guarding against accidents, by shoring up and protecting the adjoining houses, and shall cause such bars, chains or posts to be fixed across or in any street in which any such work is going on as they deem necessary in order to prevent the passage of vehicles or animals and avert danger.

Precaution against accidents.

Bars to be erected across streets during repairs;

(2) The municipal council shall cause every such street, drain or other work, during the construction or repair thereof, to be sufficiently lighted and guarded during the night.

to be lighted and guarded at night.

(3) Whoever takes down, alters or removes any such bar, chain or post, or extinguishes any such light, without the authority of the municipal council, shall be liable to a fine not exceeding rupees twenty.

Penalty for removing bar or light.

* * * * *

Names of Streets.

174. (1) The municipal council may, from time to time, cause to be put up or painted in English and a Vernacular language of the district on a conspicuous part of some building or place, at or near each end, corner or entrance of every street, the name by which such street is to be known.

Names of streets.

(2) Whoever destroys, pulls down, damages or defaces any such name, or puts up any name different from that put up by order of the municipal council, shall be liable to a fine not exceeding rupees twenty.

Penalty for defacing, &c.

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Unwholesome Buildings or lands.

186. (1) The municipal council may, by notice, require the owner or occupier of any building or land, which is in their opinion in a filthy or unwholesome state, or which is overgrown with prickly pear, wattle, lantana or noxious vegetation, to cleanse, clear or otherwise put the same in a proper state, within a time to be specified in such notice.

Penalty for filthy building or land.

(2) The municipal council, or any person generally or specially authorized by them in writing in this behalf, may, by notice addressed to the occupier of any such building, direct all or any part thereof to be internally and externally limewashed or otherwise cleansed in the manner and within a time to be specified in such notice.

Power to enter and order cleansing of buildings.

Removal of Buildings.

187. (1) Whenever the municipal council consider that any block of buildings in the municipality is, by reason of the manner in which such buildings are crowded together, or of the want of drainage or ventilation, and the impracticability of cleansing, attended with risk of disease to the occupiers thereof or to the inhabitants of the neighbourhood, they may cause a notice to be fixed to some conspicuous

Power of municipal council in case of over-crowded buildings, &c.

Notice to be affixed requiring owner to execute works or take action.

part of such block, requiring the owners or occupiers thereof, or, at the opinion of the municipal council, the owner of the land on which such buildings are erected, within a reasonable time to be specified in such notice, to execute such works or take such action as the municipal council deem necessary for the prevention of such risk.

(2) If such owners or occupiers neglect to execute such works or take such action within the time specified, the municipal council may, with the sanction of the Governor in Council, cause such works to be executed or such action to be taken in respect of such buildings, and may, if necessary, cause such buildings or any of them to be pulled down.

Municipal council to cause works to be performed at expense of owners, or buildings to be pulled down.

(3) In cases where under this section a building is pulled down, the municipal council shall make to the owner or occupier thereof a reasonable compensation.

Compensation in respect of buildings pulled down.

7.—OFFENSIVE AND DANGEROUS TRADES.

License for offensive or dangerous trades.

188. (1) The municipal council at meeting may direct—

(i) the owner or occupier of every place used for any of the following purposes, namely, for depositing or washing soiled clothes, or for boiling paddy, or for melting tallow or sulphur, or for boiling or storing offal, blood, bones or rags, or for washing or drying wool or hair, or as a soap-house, dyeing-house or yard, camphor or oilboiling house, oil-mill or press, tannery, brick, pottery or limekiln, sago manufactory, distillery or other manufactory, or place for storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise, gunpowder manufactory, manufactory of fire works, place of storing explosive or combustible materials, or of any place which is used for any purposes which are calculated to be dangerous to life, health or property ; and

(ii) the owner or occupier of any of the following places, namely, livery or hack stables, horse-lines, veterinary infirmary, public halting-place, cart-stand, cattle-shed or yard in which twenty sheep or goats or ten head of cattle or ten pigs are kept or allowed to be together ; and

License to keep stables, cart-stand, yard for cattle, &c.;

(iii) every occupier of every separate place or portion of any place for the sale or for the storage of wood, firewood, thatching materials, hay, grass, straw or coal ; and

for timber, fire-wood, and hay depots;

(iv) every owner of a bake-house,

to apply to the chairman for a license, within the first month of every official year, or, in the case of a place about to be opened for any such purposes, thirty days prior to such opening :

to be applied for on the direction of the municipal council.

Provided that no license shall be required for the storage of wood, firewood, thatching material, hay, grass, straw or coal for private use in such quantities and under such restrictions for safety as the chairman may direct.

Proviso.

(2) The chairman may in his discretion grant any license applied for under this section for any period not exceeding one year subject to such rules as to supervision and inspection and such conditions as to latrines and other matters as he thinks proper, or he may refuse, or at any time suspend or cancel, such license.

Chairman may grant or withhold licenses.

(3) Every order refusing, cancelling or suspending such license shall be in writing and shall state the grounds on which it proceeds, and any person aggrieved by such order may, within one month after such order, appeal to the municipal council, who shall pass such orders thereon as they deem fit.

Appeal.

189. Whoever without such license, or after a license has been refused, cancelled or suspended, uses or permits to be used any place for any of the said purposes, or infringes any of the conditions under which such license is granted, shall be liable to a fine not exceeding rupees one hundred, and to a further fine not exceeding rupees ten for every day after conviction during which the offence is continued.

Penalty for using place without licenses.

190. The municipal council may, from time to time, provide places for the purpose of being used as cart-stands or public halting-places, and may levy fees for the use thereof.

Cart stands.

8.—SLAUGHTER-HOUSES.

191. (1) The municipal council shall provide a sufficient number of places for the purpose of being used as public slaughter-houses, and may levy a fee on each animal slaughtered therein, at rates not exceeding rupee one for every head of cattle, and annas two for every sheep, goat or pig.

Municipal council to provide slaughter-houses.

(2) No place in any municipality shall be used as a slaughter-house or for the slaughtering of any animal intended for food, or for selling or storing for sale the flesh thereof, unless a license for such use thereof has been previously obtained from the chairman.

Slaughter houses and butchers' shops to be licensed.

License to be issued for slaughter and fees charged.

(3) No cattle, sheep, goat or pig shall be slaughtered within the municipality except in a public or licensed slaughter-house.

Festivals.

(4) The chairman may permit the slaughtering of any animal in such place or places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

Penalty for slaughtering except at a slaughter-house or drying skins so as to cause nuisance.

192. Whoever slaughters, or permits to be slaughtered, cuts up or skins, or permits to be cut up or skinned, any cattle, sheep, goat or pig at any place within the municipality other than a public or licensed slaughter-house or place, except with the written permission of the chairman, or whoever dries or permits to be dried any skin in such a manner as to cause a nuisance, shall be liable to a fine not exceeding rupees twenty for each animal or skin.

Government place exempted.

193. The provisions of sections 188, 189, 191 and 192 shall not apply to places used by Government for the purposes mentioned in the said sections.

* * * * *

Markets to be properly drained &c.

200. Every owner, farmer or occupier of any market for the sale of any animal or vegetable food or drink within the municipality shall—

(i) construct such drains and cesspits therein as the municipal council direct;

(ii) cause such market to be roofed and paved with such materials and in such manner, and provided with such latrines and urinals, of such description and in such position and number, as the municipal council direct;

(iii) provide for such supply of water to such market as the municipal council direct; and

(iv) make such alterations in the stalls, passages, shops, doors, or other parts of the said market or place as the municipal council direct.

Penalty for default.

201. (1) If such owner, farmer or occupier, after notice given to him by the municipal council directing him to carry out within a period to be specified in the notice any of the measures provided in the last preceding section, fails to comply with such notice, the municipal council may suspend, withhold or refuse the license until the notice shall have been complied with; and any person opening or keeping open any such market after such withholding, suspension or refusal shall be liable to a fine

not exceeding rupees twenty for every day during which such market or place is so opened or kept open.

(2) Any owner, farmer, occupier, agent or manager in charge of any market, or of any shop, stall, shed or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the municipal council, shall be liable to a fine not exceeding rupees twenty for each offence.

Penalty for not keeping market properly, or for not abating nuisance, or for obstructing.

* * * * *

203. (1) The municipal council may, from time to time by notification, by beat of drum and by publication in the District Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street or part of such street, and may, in like manner, cancel, suspend or modify such prohibition.

Municipal council may prohibit sale in street.

(2) Whoever after such notification sells, or exposes for sale, any articles in any such street against the terms of such notification shall be liable to a fine not exceeding rupees ten.

204. (1) The municipal council, or any person appointed by them in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or by retail, or for the storing, of articles of human food or drink intended for sale, or wherein such articles may be detained, and may examine any such articles which are therein.

Municipal council may enter and inspect places of sale or store and examine articles of food or drink.

(2) If it appears to the municipal council or such person that any such articles are unfit for human food or drink, they or he may detain the same, and report the case for the orders of the Magistrate.

Such articles if unwholesome may be detained.

(3) If the Magistrate finds that such articles are unfit for human food or drink, he shall order the same to be destroyed or so disposed of as to prevent their being exposed for sale or used for human food or drink.

Magistrate may order the same to be destroyed.

(4) If the Magistrate finds that the articles so detained were fit for human food or drink, he may make an order upon the municipal council to return such articles, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such articles were found, and to pay to him such reasonable amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such detention.

Magistrate may return articles if in good condition, and order compensation for loss, &c.

205. The municipal council, or any persons appointed by them in that behalf, may examine and test the weights and measures used in markets and shops in the municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code.

Inspection of weights and measures.

216. The municipal council shall, as far as the funds at their disposal may admit, cause the streets and footways to be regularly swept and cleansed, and the dust, dirt, ashes, rubbish and filth of every sort found thereon to be collected and removed.

Cleansing of streets.

217. (1) The municipal council shall, as far as the funds at their disposal may admit, provide suitable and sufficient—

Providing Places for the deposit of dirt, &c.

(i) depots or places for the deposit of all the matters mentioned in the last preceding section, and

(ii) dust-bins for the temporary deposit of dust, dirt, ashes, kitchen-refuse, and other inoffensive matter (excepting building, stable and garden refuse which shall be removed by the owner thereof).

(2) Whoever, after such provision has been made, deposits any of the said matters or any building, stable or garden refuse in any street, pavement or verandah of any building, or on any ground between the building and the street or on any public quay, jetty or landing-place, or on any part of a river-bank, whether above or below high-water mark, or on any part of any private premises or land without the consent of the owner or occupier thereof, shall be liable to a fine not exceeding rupees ten for each offence.

Penalty for deposit elsewhere.

218. (1) The municipal council shall, as far as the funds at their disposal may admit, provide suitable and sufficient—

Providing covered vehicles for removal of night-soil, &c.

(i) covered vehicles, carts or other means for the separate removal of night-soil and other offensive matter from the houses in the municipality; and

(ii) depots or places for the deposit of such matters.

Depot for deposit of the above.

(2) Whoever, after such provision, deposits—

Penalty for deposit elsewhere.

(i) any such matters in any dust-bin or in any vehicle, cart or vessel not covered, or in any municipal cart not intended

for that purpose, or in any of the places mentioned in sub-section (2), section 217, or in any manner otherwise than as directed, or

(ii) any matter other than night-soil and other offensive matter in any vehicle, cart or vessel provided under this section for the separate removed of night-soil and other offensive matters, shall be liable to a fine not exceeding rupees ten for each offence.

Penalty for deposit of matter other than those referred to.

(3) But no person shall be liable to such fine by reason of mixing dry-earth or ashes with night-soil or other offensive matter for the purpose of deodorizing it.

No penalty for mixing dry-earth.

219. The municipal council may by notice require all occupiers of buildings within the municipality or any part thereof to provide, within a time to be specified in such notice, moveable private receptacles of a kind to be specified in the notice for the temporary deposit in their buildings of night-soil or other offensive matter.

Provision of receptacles for temporary deposit of filth in houses.

220. (1) The municipal council may by notification appoint the time or times daily before which moveable private receptacle shall be in readiness on the premises and screened from public view for the removal of the contents thereof by the municipal servants.

Notification of time when such receptacles should be in readiness for removal of contents.

(2) Every occupier who, after such notification, fails to have the nightsoil or other offensive matter of his house collected in such receptacle and ready for removal, or who deposits any other matter in such receptacle, shall be liable to a fine not exceeding rupees ten for each offence.

Penalty for default.

(3) But no person shall be liable to such fine by reason of mixing dry-earth or ashes with night-soil or other offensive matter of the purpose of deodorizing it.

No penalty for mixing dry-earth.

221. Every occupier of a building or land who—

Penalty for keeping filth for more than twenty four hours, &c.

(i) keeps or allows to be kept for more than twenty-four hours, or otherwise than in a proper receptacle, any night-soil, rubbish or other offensive matter in such building, or upon the roof thereof, or in any out-building, yard, pavement or verandah attached to or belonging to such building or on such land, or

(ii) neglects to employ proper means to remove the filth from such receptacle and to cleanse the same, and to dispose of such filth in the manner directed by the municipal council, or

(iii) fails to comply with any requisition of the municipal council as to the repair, paving or cleansing of any latrine in his building or belonging thereto,

shall be liable to a fine not exceeding rupees twenty for each offence, and an additional fine not exceeding rupees five for every day after conviction for such offence during which the offence is continued.

Penalty for allowing sewage to flow in streets.

222. Every owner or occupier who allows the water of any sink, drain or privy, or the drainage from any stable or place, or any other offensive liquid matter belonging to him or being on his land or in his building or in any building or land occupied by him, to run down on, or to be put upon, any street, or into any drain in or alongside of any street, except in such a manner as shall prevent any avoidable nuisance from any such liquid or offensive matter soaking into the walls or ground at the side of the said drain, shall be liable to a fine not exceeding rupees ten for each offence.

Penalty for using any cart without cover in the removal of night-soil, &c.

223. Whoever, in the removal of night-soil or other offensive matter, uses any cart or receptacle not having a covering proper for preventing the escape of the contents thereof or of the stench therefrom, or spills any such offensive matter in the removal thereof, or does not carefully sweep and clean every place in which any such offensive matter has been spilled, or places or sets down in any public place any night-soil or offensive matter whether in a vessel closed or open, shall be liable to a fine not exceeding rupees twenty for each offence.

Penalty for throwing rubbish, &c., into sewers or drains.

224. Whoever puts or causes to be put any earth, dirt, ashes, garden, kitchen or stable refuse, broken glass, earthenware, rubbish or night soil into any sewer or drain belonging to the municipal council or into any drain communicating therewith shall be liable to a fine not exceeding rupees twenty for each offence.

Nuisance by child.

225. Whoever having the care or custody of any child under twelve years of age omits to prevent such child from committing a nuisance in or by the side of any street shall be liable to a fine not exceeding rupees five.

13.—MISCELLANEOUS.

Municipal council may take steps to abate overcrowding of buildings.

226. (1) Whenever the municipal council consider that any building is so over-crowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants, the municipal council may cause proceedings to be taken before a Magistrate to abate

such overcrowding, and the Magistrate shall thereupon make such order as he thinks fit.

(2) Any person permitting such overcrowding after the date of such order shall be liable to a fine not exceeding rupees ten for each day after such date during which such overcrowding continues.

Penalty for neglect of Magistrate's order.

227. The municipal council may cleanse, fill up or drain all wells or receptacles of stagnant water (not being private property) which they consider likely to prove injurious to the health of the neighbourhood :

Power to cleanse or fill up stagnant pools, &c.

Proviso.

Provided that it shall not be lawful to fill up any wells except with clean soil, gravel or sand.

228. (1) The municipal council may by notice require the owner of any tank or well to cleanse, fence, repair or fill it up if on inspection it appears likely to be dangerous or prove injurious to the health of the neighbourhood ;

Cleansing or filling up of tanks and wells.

(2) or they may, by notice, require the owner or occupier of any land or premises to drain off, or otherwise remove, any stagnant water from such land or premises, or from any tank or well attached thereto, if they consider that such stagnant water is injurious to health or offensive to the neighbourhood.

Draining off of stagnant water.

(3) Such notice may specify the mode in which such cleansing, filling up, repairing, fencing or drainage, or each of such works, is to be effected and the time within which specified portions thereof must be done.

Order may specify mode in which work to be done.

229. Whoever, not being an officer of Government in the discharge of his duty, or not being provided with a license from the chairman or from some officer of Government having authority to grant the same, removes earth, sand or other material from or deposits any matter, or makes any encroachment or obstruction, in or upon any land or river, estuary, canal, back-water or water-course within the municipality (not being private property) shall be liable to a fine not exceeding rupees twenty for every such offence.

Person removing sand &c., from public river, &c., without authority liable to penalty.

230. (1) The municipal council may, and if so directed by the District Magistrate shall, from time to time cause to be notified by beat of drum or otherwise that pigs and dogs found straying within certain limits will be destroyed.

Stray pigs and dogs.

(2) Pigs and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the Magistrate of the district may from time to time direct.

May be destroyed.

14.—PREVENTION OF INFECTIOUS DISEASES.

231. (1) The chairman, or any officer duly appointed by him in writing in this behalf, may enter at any time after two hours' notice into any building or premises in which any epidemic, endemic or dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

Chairman to have power of entry for purpose of preventing spread of disease.

(2) No such inspection shall be made except in the hours between sunrise and sunset.

(3) If the chairman is of opinion that the cleansing or disinfecting of a building or premises, or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice, require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice:

Disinfection of houses, &c.

Provided always that, when, in the opinion of the chairman, the owner or occupier is, from poverty or otherwise, unable effectually to carry out the said requirements, the chairman may cleanse or disinfect such building or premises, and any articles therein likely to retain infection, at the expense of the municipal fund.

232. (1) The chairman may from time to time notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed.

Places for washing.

(2) The chairman may direct the destruction of bedding, clothing or other articles likely to retain infection, and may in his discretion give compensation for the articles destroyed.

Infected articles may be destroyed.

(3) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (1) of this section shall be liable to a fine not exceeding rupees fifty.

Penalty.

233. When a hospital or place for the reception of persons suffering from any dangereus infectious disease is provided within the limits of any municipality, the chairman may, on a certificate signed by a medical practitioner direct the removal to such hospital or place of any person suffering from a dangerous infectious disease who is, in the

President may order removal of patients to hospital.

opinion of such medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family.

15.—BURIAL AND BURNING-GROUNDS.

Municipal council to provide burial or burning grounds.

234. (1) The municipal council may by a resolution at a meeting determine to provide a sufficient number of convenient and fitting places for burial or burning grounds, either within or without the limits of the municipality.

Burial-grounds &c., outside municipality to be governed by Act and bye-laws.

(2) Whenever the municipal council have provided any such place beyond the municipality, all the provisions of this Act and all bye-laws framed under this Act for the management of such places within the municipality shall apply to such place.

Burial and burning grounds to be registered.

235. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a burial-ground or burning ground shall, if such place be not already registered, apply to the municipal council to have such place registered.

If no owner, municipal council may register or close.

(2) If it appears to the municipal council that there is no owner or person having the control of any such place, the municipal council shall assume such control and direct it to be registered, or may at a meeting, with the sanction of the Governor in Council, determine to cause it to be closed.

No burial or burning ground to be opened without license.

236. No new burial-ground, or burning-ground, whether public or private, shall be opened or used, after the coming into operation of this act, unless a license has been granted by the municipal council at a meeting.

A book to be kept of places registered.

237. A book shall be kept at the municipal office in which places registered under section 235, or licensed under the last preceding section, shall be recorded.

Penalty for contravening section.

238. Whoever in any municipality buries or burns, or causes or suffers to be buried or burnt, any corpse in any unregistered and unlicensed vault, grave, burial or burning-ground or other place, private or public, shall be liable to a fine not exceeding rupees one hundred.

Notice to be given to municipal council of burials, &c.

239. The person having control of a burial-ground or burning-ground shall give information to any person appointed by the municipal council in that behalf of all burials and burnings which take place in or on such ground.

240. (1) If the municipal council are satisfied—

that any registered or licensed burial or burning ground is in such a state as to be or to be likely to become dangerous to the health of persons living in the neighbourhood thereof, or that any such place is overcrowded with graves,

Where burial or burning-grounds are dangerous to health—

and in the case of a public burial or burning ground that another convenient place duly authorized for burial or burning, as the case may be, has been provided for the persons who would ordinarily make use of such place,

and another convenient place is provided.

they may, with the previous sanction of the Governor in Council, issue a notice that it shall not be lawful, after a period of not less than two months, to be named in such notice, to bury or burn any corpse in or on such first mentioned burial or burning-ground.

Notice may issue not to bury or burn.

(2) Every such notice shall be published in the District Gazette and in the municipality by beat of drum.

Notice to be published.

(3) Whoever, after the expiration of such period, buries or burns, or causes or permits to be buried or burnt, any corpse contrary to the terms of the notice, shall be liable to a fine not exceeding rupees one hundred.

Penalty for burying, &c., contrary to notice.

241. Whoever—

(i) buries, or causes to be buried, any corpse, or part of a corpse, in a grave, whether dug or constructed of masonry or otherwise, in such manner that the surface of the coffin, or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground ; or

Depth of grave.

(ii) builds, or digs, or causes to be built or dug, any grave in a burial-ground at a less distance than two f from the margin of any other existing gra or

Distance between graves.

(iii) without the sanction in writing of the municipal council an order in writing of a Magistrate, re-o grave already occupied ; or

Re-opening graves.

(iv) brings, or conveys, or causes to be brought or conveyed, a corpse, or part thereof, to any burial or burning ground, and does not cause the burial or burning of the same to commence within six hours after its arrival at such burning-ground ; or

Burial and cremation.

(v) when burning, or causing to be burnt, a corpse or part of a corpse in any burning-ground, permits the same or any part thereof to remain without being completely reduced to ashes ; or

Cremation to be complete.

(vi) permits the cloths, or other articles connected with the burning of such corpse, to remain at or near such ground without being completely reduced to ashes ; or

Cloths, &c., to be burned.

(vii) carries a corpse or part of a corpse through any street not decently covered ; or

Corpses to be decently covered.

(viii) while carrying a corpse or part of a corpse within the municipality, leaves the same in or near any street, for any purpose whatever ; or

Leaving corpse on highway.

(ix) removes otherwise than in a closed receptacle any corpse or part of a corpse kept or used for the purpose of dissection ;

Removal of corpse kept for dissection.

shall for each offence be liable to a fine not exceeding rupees fifty.

Penalty.

242. All grave-diggers and other attendants at a public burial or burning-ground shall be licensed by the municipal council, and any person acting as such without license shall be liable to a fine not exceeding rupees five. Such license may be withdrawn or cancelled at the discretion of the municipal council.

Grave diggers to be licensed.

16.—REGISTRATION OF BIRTHS AND DEATHS.

243. The municipal council shall keep in their office a register of all births and deaths in the municipality, and for this purpose they may divide the municipality into such districts as they think fit, and shall appoint a person to be registrar of births and deaths within the municipality, or, in the case of the division of the municipality into districts, for every district they shall appoint a person to be registrar of births and deaths in such district.

Municipal council to keep register of births and deaths and appoint Registrars.

Penalty on registrar neglecting to perform duties.

burial ground.

244. (1) Every registrar shall reside within the municipality or district of which he is registrar, and shall cause his name, with the addition of registrar of births and deaths for the municipality or district for which he is so appointed, written in English and in the Vernacular language of the districts to be placed in some conspicuous place on or near the outer door of his dwelling-house.

Registrars to be able to read and write and to live in their districts.

(2) The municipal council shall cause to be printed a list containing the name and place of residence of every such registrar of births and deaths in the municipality.

List of registrars and their residence to be published.

245. The municipal council shall cause to be prepared a sufficient number of register books for making entries of all births and deaths which take place in the municipality according to such forms and instructions as may, from time to time, be prescribed by the Governor in Council.

Municipal council to have register books prepared and paged.

246. Every registrar shall inform himself carefully of every birth and of every death which happens in the municipality or his district after the coming into operation of this Act, and shall learn and register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms prescribed as aforesaid touching every such birth and death, as the case may be, which has not been already registered.

Registrar to inform himself of and register every birth and death.

All such entries shall be made consecutively from the beginning to the end of the book.

247. (1) The father or mother of every child born in the municipality, or, in the case of the death, illness, absence or inability of the father and mother, some person who was present at, or in attendance during, the childbirth, shall, within one week next after the day of every such birth, give, or cause to be given, information to the registrar according to the best of his or her knowledge and belief, of the several particulars required to be known and registered touching the birth of such child.

Information of birth to be given within the week.

(2) Some one of the persons present at the death, or in attendance during the last illness, of every person dying in the municipality, or, in case of the death, illness, inability or default of all such persons, the occupier of the building, or, if the occupier be the person who has died, some person living in the building in which such death has happened, shall within twenty-four hours give information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be known and registered touching the death of such person.

Information of death to be given.

248. (1) In the case of persons being born or dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send a notice to the registrar of the occurrence of any birth or death in the hospital under his charge.

Where persons die in hospital, medical officer in charge to send notice to registrar.

(v) wh[illegible] person who conducts or performs the funeral ceremonies of any person who has died within the municipality shall, whenever required, furnish being comp[illegible]rar such information as he possesses as to the said several

Cremation to [illegible]ing funeration.

(vi) [illegible]re.

249. (1) Every person who has given the information contained in any register of births or deaths under this Act shall sign in the register his name, description and place of abode, and, if he cannot write, shall put his mark in the register to his name, description and place of abode.

Person giving information to sign or mark the register.

(2) The registrar shall forthwith give, free of all charge, to the person who gives information of the birth of a child, an extract under his hand from the register relating to such birth.

Registrar to give extract.

(3) In the case of a person being born or dying in any hospital, the registration of the birth or death shall be deemed to be completed by the entry in the register of the written notice received from the medical officer in charge of the said hospital prescribed in section 248 without the signature of the medical officer to the entry in such register.

But, in case of persons born or dying in hospital, register complete on entry of medical officer's notice.

(4) Any person may, at all reasonable times, on payment of a fee of annas eight for each visit, search, in the presence of the registrar, any register of births and deaths, and may require the registrar to give him an extract under his hand from such register relating to any birth or death registered therein. A fee of annas eight shall be payable by such person in respect of each birth or death regarding which he requires an extract from the register to be given.

Search of birth and death registers.

* * * * *

260. If any municipal councillor or servant of a municipal council is, otherwise than with the permission in writing of the Collector of the district, directly or indirectly interested in any contract made with the municipal council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code :

Penalty on municipal councillor or servant being interested in contract made with municipal council.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between such company and the municipal council.

Penalty for illegally doing any act without a license, &c.

263. (1) If under this Act the license or written permission of the chairman of the municipal council is necessary for the doing of any act in respect of any property, moveable or immoveable, public or private, and if such act is done—

(i) without such license or permission, or

(ii) when such license or permission shall have been granted in a manner inconsistent with or contrary to the terms of such license or permission,

and if no penalty has been specially provided in this Act for any act so done, the person doing such act shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees fifty for every such offence, and to a further fine not exceeding rupees ten for every day during which the said offence is continued after such conviction ;

(2) And the municipal council may, by notice, require any such person to alter, remove or, as far as practicable, restore to its original state the whole or part of such property, within a time to be specified in such notice.

Penalty for omission to comply with notice.

264. (1) If any person to whom a notice shall have been given under the provisions of this Act, requiring him to execute any work, in respect of any property, moveable or immoveable, public or private, or to provide anything, within a time specified in the notice, omits to comply with such notice, and if no penalty is specially provided by this Act for such omission, such person shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees twenty for every such offence, and to a further fine not exceeding rupees ten for every day during which such work remains unexecuted or such thing unprovided after such conviction ; and

Municipal council may execute work.

(2) The municipal council may in their discretion cause such work to be executed or such thing to be provided ; and

Expenses by whom to be paid.

(3) The expenses incurred in the execution of any such work or the provision of any such thing shall be paid by the person to whom the notice shall have been given.

Materials found on property may be used.

(4) The materials found upon such property, moveable or immoveable, may be used by the municipal council in the execution of such work or the provision of such thing, or may be sold by them and the sale-proceeds may be applied towards the payment of the expenses.

273. (1) If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, the municipal council, upon proof thereof, may give an order in writing requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Act.

Proceedings in case of occupier opposing execution of Act.

(2) If, after the expiration of eight days from the date of the service of such order, such occupier continues to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continue to refuse, be liable to a fine not exceeding rupees fifty.

Penalty.

(3) Every such owner, during the continuance of such refusal, shall be discharged from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

'er absolved.

* * * * *

Penalty for obstructing persons employed by the municipal council in their duty.

277. (1) Whoever—

(i) obstructs or molests the municipal council, or any person employed by them, or any person with whom they have contracted, under the provisions of this Act, in the performance of their or his duty, or obstructs any such person or any other person from doing anything which he is empowered or required to do by virtue of this Act, or

(ii) removes any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act,

shall be liable to a fine not exceeding rupees fifty.

(2) Whoever removes, destroys, defaces or otherwise obliterates any notice put up or exhibited by the municipal council, or under their orders, shall be liable to a fine not exceeding rupees fifty.

Penalty for removing or destroying notice.

* * * * * *

282. (1) Every police-officer shall give immediate information to the chairman or the servants of the municipal council of any offence committed contrary to the provisions of this Act, or the bye-laws made

Police-officers to report offences to municipal council.

in pursuance thereof, and shall help them in giving effect to the provisions of this Act in such manner and at such times as may be necessary.

Power to police to arrest persons committing offences in their view.

(2) Any police-officer may arrest any person committing in his view any offence against any of the provisions of this Act if the name and address of such person be unknown to him, and if such person decline to give his name and address, or if the police-officer shall have reason to doubt be accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained.

Penalty.

(3) Any police-officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 10, Act XXIV of 1859.

Penalty for omission to give information.

283. If any person, who is required by the provisions of this Act or by any notice or other proceeding issued thereunder to furnish any information—

(i) omits to furnish the same, or

(ii) knowingly or negligently furnishes false information,

such person shall be liable to a fine not exceeding rupees one hundred.

Illegal collection of taxes and tolls.

284. (1) Every person who,—

(i) not being appointed or duly authorized to collect the taxes and tolls and other sums due to the municipal council under this Act, shall levy or demand any tax, toll or sum, or

(ii) shall unlawfully and extortionately demand or take any other or higher tax, toll or sum than the lawful tax, toll or sum, or

(iii) under colour of this Act shall seize or sell any property, knowing such seizure and sale to be unlawful, or,

(iv) in cases where he shall be entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or

(v) shall in any manner extort any money or any valuable thing from any person under colour of this Act,

shall be liable to a fine not exceeding rupees five hundred.

285. Every prosecution under this Act may be instituted before any Magistrate having jurisdiction over the offender.

Prosecution before Magistrate.

286. (1) In case any fine, damage, penalty or costs imposed under or by virtue of this Act or of any bye-law made in pursuance thereof, shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to a warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be detained in custody, or compelled to give security, if fine, &c., be not forthwith paid.

(2) If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine or sum of money and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the admission of the offender or otherwise that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender to prison, there to be simply imprisoned, according to the discretion of the Magistrate, for any term not exceeding one calendar month when the amount of such fine or sum of money shall not exceed rupees fifty, and for any term not exceeding two calendar months when the amount shall not exceed rupees one hundred, and for any term not exceeding six calendar months in any other case ; such commitment to be determinable in each of the cases aforesaid on payment of the amount.

If no sufficient distress can be had, or there be not sufficient property whereupon the fine, &c., can be levied, the offender may be imprisoned.

(3) The Magistrate by whom any fine or penalty is imposed by virtue of this Act shall award the whole of such fine or penalty to the municipal council, to be by them applied to the purposes of this Act.

How fines and penalties are to be applied.

287. When an act or omission is punishable under the provisions of this Act and those of any other law, the municipal council may in their discretion prosecute the person guilty of such act or omission under this or such other law as they may deem fit.

Prosecutions.

GUNPOWDER.

M. ACT NO. I. OF 1880.

PASSED ON THE 13TH SEPTEMBER 1880.

An Act for regulating the Storing, Sale, and Packing for conveyance of Gunpowder.

WHEREAS it is expedient to make provision for the storing, sale, and packing for conveyance of gunpowder; It is enacted as follows :—

Preamble.

Interpretation-clause. "Magistrate."

1. "Magistrate" in this Act means in the town of Madras, a Magistrate appointed under the Presidency Magistrate's Act, 1877, or any other law for the time being in force for the appointment of Magistrates, and for all other places within the Presidency of Fort St. George, a Magistrate appointed under the Code of Criminal Procedure or other law for the time being in force.

Imprisonment.

"Imprisonment" means simple or rigorous imprisonment as defined in the Indian Penal Code.

Application of Act.

2. This Act shall come into operation in the town of Madras and in any town in which Madras Act III of 1871 may be in force, from such date or dates respectively as the Governor of Fort St. George in Council may, by notification in the *Fort St. George Gazette*, from time to time, direct.

Duty of Municipality to erect and maintain a magazine for storage of gunpowder.

3. It shall be the duty of the municipal commissioners of every town to which this Act may be applied under the last preceding section, to provide and maintain a magazine for the deposit and storage of gunpowder at a safe distance from any dwelling-house.

Such magazine shall be provided and maintained subject to the directions and approval of any officer authorized by the Governor in Council in that behalf.

Persons possessing more than 50 lbs. of gunpowder to deposit same in such magazine under certain terms.

4. Every person within the Municipal limits of every town to which this Act may be extended, and in which a magazine shall have been provided, having in his possession more than fifty pounds of gunpowder, shall deposit so much thereof as shall be in excess of fifty pounds, in a suitable case, canister or other package, which shall prevent the gunpowder from escaping, in the said magazine, upon such terms as to payment for the use of the building

and the receptacles in it, and subject to such regulations as to obtaining access to the building for the purpose of depositing or taking away gunpowder, as the Municipal Commissioners with the previous sanction of the Governor in Council may from time to time prescribe.

Gunpowder to be kept in suitable box or safe.

5. Every person having in his possession for any purpose gunpowder not exceeding fifty pounds shall keep the same in a suitable box or fire-proof safe, and no article or substance of an explosive or highly inflammable nature shall be kept in such box or fire-proof safe with the gunpowder.

Gunpowder not to be exposed for sale unless secured in substantial case with word "Gunpowder" conspicuously marked on it.

6. No gunpowder shall be exposed for sale upon any highway-street, public thoroughfare or public place unless it is secured in a suitable case, canister or other receptacle as aforesaid, made and closed so as to prevent the gunpowder from escaping, and the outermost receptacle containing such gunpowder shall have affixed the word "gunpowder" in English and in the principal vernacular language of the town in conspicuous characters by means of a brand or securely attached label or other mark.

Government may make rules as to packing for conveyance.

7. The Governor in Council may, from time to time, make rules for regulating the packing of gunpowder for conveyance from one place in the Presidency to another.

Rules not valid till published three times in Gazette.

Such rules shall have no validity until they have been published three times in the Fort St. George and Local Gazettes.

Penalty for breach.

8. Any person committing a breach of any of the provisions of this Act, or acting in contravention of any of the rules made and published under section 7, shall, on conviction before a Magistrate, be liable for every such offence to a fine not exceeding rupees one hundred, which may be recovered in manner provided by the law in force for the time being for the recovery of fines, as well as to forfeiture, at the discretion of the Magistrate, of the article or articles in respect of which the breach or contravention has been committed, and in case of a second conviction shall in addition be liable to undergo imprisonment for a period not exceeding one month.

Gunpowder belonging to Government exempted from Act.

9. Nothing in this Act shall affect gunpowder belonging to Government.

HACKNEY CARRIAGE.

M. ACT NO. III. OF 1879.

PASSED ON THE 23RD MAY 1879.

An Act to make provision for the Regulation of Hackney Carriages in the Town of Madras.

WHEREAS it is expedient that arrangements be make for the regulation, control and protection of hackney carriages plying for hire for the conveyance of passengers within the town of Madras; and for fixing and enforcing terms of hiring; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Madras Hackney Carriage Act 1879."

Local extent.

It shall apply to the town of Madras, and may be extended from time to time to any other town or place in the Madras Presidency by notification of the Governor in Council in the *Fort St. George Gazette*.

Provisions repealed.

Sections 158 and 159 of Madras Act No. V of 1878 are hereby repealed.

Interpretation.

3. *The following words and expressions in this Act shall have the meanings hereby assigned to them, unless* there be something in the subject or context repugnant to such construction (that is to say):—

"Magistrate."

The word "Magistrate" in this Act shall mean any Magistrate for the town of Madras, or other place to which this Act may be extended.

"Hackney carriage" "and carriage".

The words "Hackney Carriage" and "carriage" in this Act shall mean any vehicle of whatever description used for the purpose of plying for hire for the conveyance of passengers by whatever number of horses, bullocks or other animals such carriage may be drawn.

"Horse".

The word "horse" shall include a mule or pony.

Hackney carriages to be registered annually.

4. Every hackney carriage shall be annually registered by the Commissioner of Police for the town of Madras.

Time and duration of registry.

5. The year of registration shall commence on the 1st day of January and shall terminate on the 31st day of December of each year.

Proviso.

Provided that in all cases in which registration of any hackney carriage has been made under sections 158 and 159 of Madras Act V of 1878, it shall not be necessary to take out a license under this Act for the same year.

Application for registry.

6. Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the Commissioner of Police, and shall submit such vehicle for such inspection as the Commissioner of Police may direct.

Application may be granted or refused.

7. The Commissioner of Police shall decide whether the vehicle is fit for public use and shall register it, or refuse to register it, as to him may seem fit.

License to be delivered to owner. Register number of carriage &c., to be painted.

8. The Commissioner of Police shall at the time of registration deliver a license duly signed by him to the applicant, and shall then and whenever otherwise necessary cause to be painted on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

Renewal of such painting.

If the words or figures so painted shall, during the term of the license, become indistinct or obliterated, the owner of the carriage shall be bound to produce it before the Commissioner of Police, and apply to have such words or figures renewed.

Particulars of register and license.

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

1*st*. The number in the register of the hackney carriage.

2*nd*. The name and residence of the owner.

3*rd*. The number of horses or other animals to be employed in drawing such carriage.

4*th*. The number of passengers such carriage is licensed to carry.

5*th*. The date of the license.

Fee for license.

10. A fee shall be paid to the Commissioner of Police for each license in accordance with the following scale:—

	Rs.	A.	P.
For every four wheeled carriage drawn by two or more horses licensed to carry more than six passengers	3	0	0
For every other four-wheeled carriage drawn by two horses	2	0	0
For every other four-wheeled carriage drawn by one horse or two ponies or bullocks	1	0	0
For every two-wheeled carriage drawn by one horse...	0	8	0
For every two-wheeled carriage drawn by one or more bullocks	0	4	0

11. The Commissioner of Police may suspend for such period as he thinks fit the license of any carriage, whenever it shall appear to him that such carriage, or any animal or harness used therewith is unfit for public use.

Commissioner of Police may suspend license when carriage or animal unfit for use.—

12. Whenever any change shall take place in the ownership of a hackney carriage, if the person to whom the vehicle shall have been transferred shall desire to use it as a hackney carriage, he shall, before so using it, give to the Commissioner of Police notice in writing of such transfer, and of his own name and place of abode.

Notice to be given of change of ownership.

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

Penalty for using before giving notice.

13. Whenever any person licensed under section 8 of this Act shall change his residence, he shall within one week from the date of such change give to the Commissioner of Police a notice in writing signed by him, specifying such new residence.

Licenses to give notice of change of residence, or place.

Every such person who shall neglect to give such notice shall be liable for every such offence to a fine not exceeding twenty rupees.

Penalty for neglect to give notice.

14. The Commissioner of Police, on receiving the notices specified in either of the two last preceding sections, shall make the necessary alteration in the register and the license ; and no fee shall be payable in respect thereof.

Change of residence to be entered in register without fee.

15. Whoever keeps or is the proprietor of any hackney carriage *which has not been duly licensed under this* Act shall be liable to a fine not exceeding Rupees fifty for each day on which such offence is committed.

Penalty for keeping unlicensed carriage, &c.

Any Police officer may seize and remove to a police station such hackney carriage, together with the animals drawing the same.

Police may seize such carriage &c.

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

When such carriage, &c. may be sold.

The surplus, if any, if not claimed by the owner or keeper within a further period of twenty-one days shall be forfeited to Government.

When surplus forfeited to Government.

16. Whoever drives in any hackney carriage any animal which is not so secured as to be under the control of the driver shall be liable for every such offence to a fine not exceeding fifty rupees, or in default of payment to rigorous imprisonment for a period not exceeding one month.

Penalty for driving animal not properly secured.

17. If any hackney carriage shall be let or used for hire without bearing legible inscription as prescribed by section 8, the owner thereof shall be liable, for every such offence, to a fine not exceeding Rupees twenty.

Penalty for letting carriage without having legible inscription.

DRIVER'S LICENSE.

18. It shall be lawful for the Commissioner of Police to grant a license to act as driver of any hackney carriage to any person who shall apply for the same, and to whom it may seem proper to the said Commissioner to grant it.

Drivers of hackney carriages to have license.

Every such license shall contain—

Particulars thereof.

the number of the license;

the name, place of abode, and age of the person to whom such license is granted;

the description of carriage and animals such person is licensed to drive;

the date on which the license was granted;

and shall bear the signature of the Commissioner of Police.

The license shall continue in force for one year from the date thereof, unless the same shall be sooner revoked.

License to be in force for one year.

For every such license there shall be paid a fee of one rupee.

Fees payable for license.

19. The particulars of every license which shall be granted under the provisions of section 18 of this Act shall be registered by the Commissioner of Police; and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of two annas.

Particulars of license to be registered and copies given on payment of fee.

20. Every person who shall act as the driver of a hackney carriage without having the appropriate license in force for the time being, or who, having a license, shall allow the same to be used by

Penalty on driver for not having license or for lending license.

any other person, shall be liable, for every such offence, to a penalty not exceeding twenty rupees, and, in default of payment, to rigorous imprisonment for a period not exceeding one month.

Penalty on owner for suffering unlicensed person to act as driver.

21. Every owner of a hackney carriage who shall knowingly suffer any person, not duly licensed under this Act, to act as driver of such carriage shall be liable, for every such offence, to a penalty not exceeding fifty rupees.

Proviso.

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

DRIVERS BADGE.

Driver to wear a metal badge.

22. The Commissioner of police shall, at the time of granting a license to any driver of a hackney carriage, furnish him with a metal plate or badge punched or marked with a number corresponding with the number of his license.

Driver to wear badge exposed to view.

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

Penalty for breach of above provision.

In case any such driver shall omit to wear such badge exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a penalty not exceeding ten rupees, and in default of payment to rigorous imprisonment for a period not exceeding fourteen days.

Driver entitled to new badge on loss or distruction of former one.

Every driver shall be entitled, on payment of a sum not exceeding one rupee, to have a new license and badge issued to him on satisfying the Commissioner of Police that the badge previously issued to him has been lost or destroyed.

License and badge to be surrendered on expiry.

23. Upon the expiration or other determination of any license, whether by substitution or cancellation, granted to a driver under this Act, such driver shall deliver such license and his badge to the Commissioner of Police.

Penalty for neglecting to deliver up badge, lending badge, &c., upon determination of license.

Every driver who shall wilfully neglect for three days to driver such expired license and badge to the said commissioner, and also every person who shall use, or wear, or fraudulently detain any such expired license or badge, shall for every such

offence be liable to a penalty not exceeding twenty rupees, and in default of payment to rigorous imprisonment for a period not exceeding one month.

Penalty for using or having a counterfeit badge.

24. Every person who shall for the purpose of deception use or wear any badge resembling or intended to resemble any badge granted under the authority of this Act, shall for every such offence be liable to a penalty not exceeding fifty rupees, or in default of payment to rigorous imprisonment for a period not exceeding two months.

Such badge may be seized.

25. It shall be lawful for any Police Officer, or person employed for that purpose by the Commissioner of Police, to seize and take away any expired or counterfeit badge, and to deliver the same to the Commissioner of Police.

Penalty for failing to produce license before Magistrate.

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

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

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

Revocation or suspension of driver's license on his conviction of any offence.

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

Penalty for refusal or neglect to deliver.

29. Every driver or other person who, being required to deliver up his license and badge as provided in section 28, refuses or neglects to do so, shall be liable for every such offence to a penalty not exceeding ten rupees, or in default of payment to regorous imprisonment for a period not exceeding fourteen days.

30. The Magistrate shall forward every license and every badge so delivered up to him in pursuance of this Act to the Commissioner of Police together with a memorandum of his sentence in the case.

Magistrate to send surrendered license to Registering Officer, with memorandum of his award.

The Commissioner of Police shall enter the fact of such sentence in the register referred to in section 19, and shall either suspend or cancel such license according to the sentence of the Magistrate; and if it has been suspended, the Commissioner shall on application, at the end of the time of suspension, redeliver such license or badge to the person to whom it was granted.

Cancellation or redelivery.

FARES, HIRING, AND PLYING FOR HIRE.

31. The owner, attendant, or driver of every hackney carriage shall be entitled to demand and take for the hire of such carriage such fares as may be from time to time fixed and published by the Commissioner of Police with the sanction of Government duly notified in the *Fort St. George Gazette*.

Fares to be paid for hackney carriages.

Printed tables of fares so fixed, with conditions as to hiring by time and distance, and as to rates of speed, shall be kept by the Commissioner of Police for sale to the public at a price not exceeding two annas per copy.

Tables of fares, &c., to be kept for sale.

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

Contract for lower fares to be binding.

32. The owner of every hackney carriage shall put up and at all times keep, in such position as shall be directed by the Commissioner of Police, in or on such carriage, a clear and legible list in the English and Tamil or other Vernacular languages showing,

Owner to keep list of fares in or on carriage.

the number of such carriage in the register:

the name in full of the licensee; and

the rates and fares authorized to be taken for the hire of such carriage under this Act;

And he shall be bound to furnish duplicates of such list to the driver and to the attendant of every such carriage.

Duplicates to be given to driver and attendant.

Every such owner who shall fail to comply with the provisions of this section shall be liable for every such offence to a fine not exceeding ten rupees.

Penalty for breach.

33. Every driver and attendant of a hackney carriage shall have with him, when plying for hire, the list prescribed in the last preceding section and shall produce the same when so required by the hirer.

Drivers, &c., to have list of fares with them.

Every driver and attendant who shall fail to comply with the provisions of this section shall be liable to a fine not exceeding Rupees ten, and in default of payment to rigorous imprisonment for a period not exceeding fourteen days.

Penalty for failure.

34. The list referred to in the last two preceding sections shall be prepared by the Commissioner of Police, and shall be issued to all applicants on payment of a fee not exceeding two annas for each copy.

List to be prepared for sale.

35. The driver of every hackney carriage shall drive such carriage to any place to which he shall be required by the hirer thereof to drive the same ; provided that the distance shall *not exceed six miles from the place* of hiring.

Distance driver bound to drive.

When any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate of speed not less than the rate as provided in pursuance of section 31.

As to speed when hired by time.

Any such driver failing, without reasonable excuse, to comply with the provisions of this section, shall be liable for every such offence to a fine not exceeding five rupees, or, in default of payment, to simple or rigorous imprisonment for a period not exceeding seven days.

Penalty for failure.

36. The driver of every hackney carriage shall carry in or upon such carriage a reasonable quantity of luggage for every person hiring the same without any additional charge.

Reasonable quantity of luggage to be carried.

37. Every driver, or attendant of any hackney carriage who shall without sufficient reason refuse to let such carriage for hire shall be liable, for every such offence, to a fine not exceeding twenty rupees, and in default of payment to simple or rigorous imprisonment for a period not exceeding one month.

Penalty for refusing to let a carriage for hire.

38. Every driver or attendant of a hackney carriage, who shall be drunk during his employment ;

Penalty in case of drunkenness, misconduct &c.

or make use of insulting or abusive language or gesture ;

or who shall wilfully obstruct, or hinder, the driver or attendant of any hackney carriage in taking up or setting down any person into, or from, such other carriage ;

or who shall wrongfully prevent, or endeavour to prevent the driver or attendant of any other hackney carriage from being hired ;

or who shall demand or exact more than the proper fare to which he is legally entitled ;

or who shall refuse to admit and carry in such carriage the number of passengers the carriage is licensed to carry :

or who shall carry more than such number of passengers ;

or who shall refuse to carry a reasonable quantity of luggage as provided by this Act ;

or who, being hired by time, shall, before he has been discharged by the hirer, wilfully desert from the hiring :

or who shall ply for hire with any carriage, or animal which shall at the time be unfit for public use ;

or who shall, without previously disinfecting it knowingly use for hire any carriage recently used for the conveyance of any person suffering from any contagious or infectious disease,

shall be liable for every such offence to a fine not exceeding fifty rupees, and, in default of payment, to rigorous imprisonment for a period not exceeding two months.

Proprietors of carriages may be summoned to appear and produce drivers or attendants.

39. When a complaint is made before a Magistrate against the driver or attendant of a hackney carriage for any offence committed by him against the provisions of this Act, such Magistrate may summon the owner of the carriage personally to appear and to produce the driver or attendant, as the case may be, of such carriage to answer the complaint.

On failure, Magistrate may proceed with case.

If such owner after being duly summoned fail, without reasonable excuse, to product the driver or attendant, it shall be lawful for the Magistrate to proceed in the absence of such driver or attendant to hear and determine the case in the same manner as if he had been produced, and to adjudge payment by the owner of any penalty awarded against the driver or attendant.

Disputes how to be settled.

40. In case of any dispute between the hirer and driver or attendant of any hackney carriage, the hirer may require the driver, and the driver, or attendant may require the hirer to proceed forthwith to the nearest Magistrate's

Court ; and the then sitting Magistrate shall hear and determine the dispute in a summary way.

If no Magistrate be then sitting, either party may require the other to proceed to the nearest Police Officer, who shall enter the complaint in his Diary and require the parties to appear before the Magistrate at his next sitting.

On failure of either party to attend such sitting, the Magistrate if he think fit may decide the case ex parte.

Procedure in case of refusing to pay fares.

41. If any person who shall have hired a hackney carriage, shall refuse to pay to the owner, driver or attendant thereof, on demand, the fare payable under this Act, it shall be lawful for the Magistrate who hears the case to order payment of such fare and also of such compensation for loss of time as shall seem reasonable.

Penalty for fraudulent evasion.

If any hirer who shall have used any such carriage shall fraudulently attempt to evade payment of his fare, he shall be liable, for every such offence, to a fine not exceeding fifty Rupees or rigorous imprisonment for a period not exceeding two months, in addition to the payment of such fare and compensation as hereinbefore mentioned.

Penalty for destroying, &c., table of fares.

42. Every person who shall maliciously or knowingly tear, destroy, deface, obliterate, or remove any table of fares which shall have been put up under the provisions of section 32 of this Act, shall be liable for every such offence to a fine not exceeding twenty rupees, or in default of payment to rigorous imprisonment for a period not exceeding one month.

Penalty for wilful injury to carriage.

43. Every person using a hackney carriage who shall wilfully injure the same shall be liable for every such offence to a fine not exceeding twenty rupees, or in default of payment to rigorous imprisonment, for a period not exceeding one month, and shall also pay to the owner such compensation for the injury as the Magistrate may direct.

Table of distances signed by Commissioner of Police conclusive.

44. In the case of disputes as to the fare to be paid according to distance, any table or book signed by the Commissioner of Police shall be taken to be conclusive evidence of all the fares and distances therein stated.

Stands to be fixed.

45. The Commissioner of Police may from time to time appoint a sufficient number of public stands for hackney carriages.

Every public stand so appointed shall have a board placed in a conspicuous place on the same containing a notice in the English and Tamil

or other Vernacular Languages stating that the stand is a public stand under this Act, and the number of carriages that shall stand upon it.

MISCELLANEOUS.

46. The owner, driver, or attendant of every hackney carriage wherein any property shall be left by any person shall, within twelve hours, carry such property, if not sooner claimed by the owner thereof, to the nearest Police Station and shall there deposit it with the Inspector or other officer on duty and demand a receipt for it duly signed by the officer taking charge of the same.

Property left in carriages to be deposited in Police Office.

Any such owner, driver, or attendant making default herein shall be liable, for every such offence, to a penalty not exceeding twenty rupees, or in default of payment to rigorous imprisonment for a period not exceeding one month.

Penalty.

47. The said Inspector or officer shall forthwith enter, in a book to be kept for that purpose, the description of such property; the name and address of the driver, attendant or other person who shall bring such property;

Police Officer to enter particulars in book.

the name and address of the owner of the hackney carriage in which the property shall have been left, and the registered number of such carriage;

and the day and hour on which the property shall have been brought; and shall give to the person bringing the property a receipt for the same.

Such property shall be returned to the person who shall prove to the satisfaction of the Commissioner of Police that the same belongs to him upon payment of all expenses incurred, together with such reasonable sum to the owner, driver or attendant as the said Commissioner may award.

Property to be returned to owner.

Provided always that if such property is not claimed and ownership proved within six months from the date of deposit, the said Commissioner shall cause the property to be advertised and sold by public auction, and the proceeds, after deducting the expenses together with a reasonable some to the owner, driver, or attendant shall be forfeited to the Government.

When such property may be sold and how proceeds may be applied.

48. All complaints as to offences against this Act shall be heard and determined by a Magistrate; and all fines, penalties, compensation or rewards under this Act shall be levied under Act IV of 1877 (Presidency Magistrates' Act) or other law for the time being in force.

Offences to be tried by Magistrate having local jurisdiction.

Compensation for frivolous complaints.

49. In every case in which any complaint of any offence under this Act shall be laid before a Magistrate and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the complaint, the Magistrate shall have power to award such compensation, not exceeding twenty rupees, to be paid by the complainant to the person complained against, or to the owner of the hackney carriage if summoned under section 37 of this Act, or to both, for his or their loss of time and expenses in the matter, as to the Magistrate shall seem meet.

Appointment of officer when Act extended beyond Madras.

50. Whenever this Act shall be extended to any other town or place as hereinbefore provided, the Governor in Council may appoint any person to perform the duties imposed by this Act on the Commissioner of Police.

LEGAL PRACTITIONERS.

ACT No. XVIII. OF 1879.

PASSED ON THE 29TH OCTOBER 1879.

An Act to consolidate and amend the law relating to Legal Practitioners.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to legal practioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjab, Oudh, the Central Provinces, and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.
Commencement.

1. This Act may be called "The Legal Practitioners Act, 1879," and shall come into force on the first day of January 1880.

Local extent

This section and section 2 extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces, and the Panjab, and the Chief Commissioners of Oudh, the Central Provinces, and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.*

Repeal of enactments.

2. On and from the first day of January 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

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* The Act has been extended, subject to certain omissions, and so far only as it relates to Judicial Courts, Civil and Criminal, to the Madras Presidency (except the Scheduled Districts), with effect from 1st April 1882.—See *Fort St. George Gazette*, Sep. 20, 1881, Part I, p. 431 ; *ibid*, 7th Dec. 1881, Part I, p. 707.

Ch. I., sec 40, sch. ii, and so much of Chaps. III., V., VI., and VII., as relates to Pleaders have been extended to Coorg.— See *Mysore Gazette*, 6th Dec. 1879, Part I., p. 355.

The Act has also been declared, under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts in the Chutia Nagpur Division, namely ; the Districts of Hazaribagh, Lohardaga, and Manbhum, and Pargana Dhalbhum, and the Kholhan in the District of Singbhum.—See *Gazette of India*, 22nd Oct. 1881, Part I., p. 504.

Saving of rules, &c.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given, and orders passed under any enactment hereby repealed, shall be deemed to be respectively made, prescribed, fixed, admitted enrolled, issued, given, and passed under this Act.

References to repealed enactments.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

Interpretation-clause.

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

"Judge."

"Judge" means the presiding judicial officer in every Civil and Criminal Court, by whatever title he is designated :

"Subordiante Court;"

"Subordinate Court" means all Courts Subordinate to the High Court, including Courts of Small Causes established under Act No. XV. of 1882* or Act No. XI. of 1865 :

"Revenue office :"

"Revenue office" includes all Courts (other than Civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

"Legal practitioner."

"Legal practitioner" means an advocate, vakil, or attorney of any High Court, a pleader, mukhtar, or revenue-agent.

CHAPTER II.

OF ADVOCATES, VAKILS, AND ATTORNEYS.

Advocates and vakils.

4. Every person now or hereafter entered as an advocate or vakil on the roll of any High Court under the Letters Patent constituting such Court, or "under section 41 of this Act, "† shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered and in all revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by pleaders or revenue-agents; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained,

* See Act XV. of 1882, sec. 2.

† The words quoted have been substituted for the words, " as an advocate on the roll of the Chief Court of the Panjab, " by Act IX. of 1884, sec. 2.

s entitled, as such, to practise in any Court in British India other than High Court on whose roll he is not entered, or, with the permission the Court, in any High Court on whose roll he is not entered, and in ıy revenue-office :

Provided that no such vakil shall be entitled to practise under ıis section before a Judge of the High Court, Division Court, or High ourt exercising original jurisdiction in a presidency-town.

Attorneys of High Court.

5. Every person now or hereafter entered as an attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such igh Court and in all revenue offices situate within the local limits of ıe appellate jurisdiction of such High Court, and every person so ntered who ordinarily practises in the Court on the roll of which he so entered or some Court subordinate thereto shall, notwithstanding nything herein contained, be entitled, as such, to practise in any ourt in British India other than a High Court established by Royal harter on the roll of which he is not entered, and in any revenue-office.

The High Court of the province in which an attorney practises nder this section may, from time to time, make rules declaring what hall be deemed to be the functions, powers, and duties of an attorney o practising.

CHAPTER III.

OF PLEADERS AND MUKHTARS.

Power to make rules as o qualification, &c., of leaders and mukhtars.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(*a*) the qualifications, admission, and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices, situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*b*) the qualifications, admission, and certificates of proper persons to be mukhtars of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*c*) the fees to be paid for the examination and admission of such persons ; and

(*d*) the suspension and dismissal of such pleaders and mukhtars.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law: Provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Certificates to pleaders and mukhtars.

7. On the admission, under section 6, of any person as a pleader or mukhtar, the High Court shall cause a certificate signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in the Courts, and, in the case of a pleader, also the revenue-offices, specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such pleader or mukhtar shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

Pleaders on enrolment may practise in Courts and revenue-offices.

8. Every pleader holding a certificate issued under section 7 may apply to be enrolled in any Court or revenue office mentioned therein, and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead, and act in such Court or office, and in any Court or revenue-office subordinate thereto.

Mukhtars on enrolment may practise in Courts.

9. Every mukhtar holding a certificate issued under section 7 may apply to be enrolled in any Civil or Criminal Court mentioned therein, and situate within the same limits; and, subject to such rules as the High Court may, from time to time, make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a mukhtar in any such Civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure*) appear, plead, and act in any such Criminal Court and any Court subordinate thereto.

* See Act X. of 1882, sec. 3.

No person to practise as pleader or mukhtar unless qualified.

10. Expect as provided by this Act, or any other enactment for the time being in force, no person shall practise as a pleader or mukhtar in any Court not established by Royal Charter unless he holds a certificate issued under section 7, and has been enrolled in such Court or in some Court to which it is subordinate:

Provided that persons who have been admitted as revenue-agents before the first day of January 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal, may be enrolled in manner provided by section 9 in any Munsif's Court in the said territories, and, on being so enrolled, may appear, plead, and act in such Court in suits under Bengal Act No. VIII. of 1869* (*to amend the procedure in suits between Landlord and Tenant*), or under any other Act for the time being in force regulating the procedure in suits between landholders and their tenants and agents.

Revenue agents may appear, plead, and act in Munsifs' Courts in suits under Bengal Act VIII. of 1869.

Notes.

A pleader or mukhtar practising in contravention of the provisions of this section is punishable under sec. 32 only by the Court before which he has so practised.—I. L. R, 5 Al. 375.

Power to declare functions of mukhtars.

11. Notwithstanding anything contained in the Code of Civil Procedure,† the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers, and duties of mukhtars practising in the subordinate Courts, and in the case of a High Court not established by Royal Charter, in such Court.

Suspension and dismissal of pleaders and mukhtars convicted of criminal offence.

12. The High Court may suspend or dismiss any pleader or mukhtar holding a certificate issued under section 7 who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader or mukhtar, as the case may be.

Suspension and dismissal of pleaders and mukhtars guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss—

any pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure,† or

* Superseded by Act VIII. of 1885.

† See Act XIV. of 1882, sec. 3

any pleader or mukhtar holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause:

Provided* that, where the party is—

(*a*) a pardanashin woman, or

(*b*) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorized by the party to give such instructions and not receiving any remuneration in respect thereof.

Notes.

A pleader's professional misconduct having amounted to "reasonable cause," within the meaning of sec. 13 of the Legal Practitioners Act, XVIII of 1879, for suspending him from practice, their Lordships declined to interfere with the decision of the High Court as to the punishment, it not being clearly shown that the quantum awarded was unreasonable and excessive.—I. L. R., 13 Al. 93.

Procedure when charge of unprofessional conduct is brought in subordinate Court or revenue-office.

14. If any such pleader or mukhtar practising in any subordinate Court or in any revenue-office is charged in such Court or office with taking instructions except as aforesaid, or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the pleader or mukhtar at least fifteen days before the day so appointed.

On such day, or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the pleader or mukhtar, and shall proceed to adjudicate on the charge.

If such officer finds the charge established, and considers that the pleader or mukhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend, or dismiss the pleader or mukhtar.

Suspension pending investigation.

Any District Judge, or with his sanction any Judge subordinate to him, "any Judge of a Court of Small Causes of a Presidency-town,"‡ any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue Authority not inferior to a Collector or with the Collector's

* This proviso has been added by Act IX. of 1884, sec. 3.

‡ The words quoted have been inserted by Act IX. of 1884, sec. 4

sanction any Revenue Officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practice any pleader or mukhtar charged before him or it under this section.

Every report made to the High Court under this section shall—

(*a*) when made by any Civil Judge subordinate to the District Judge, be made through such Judge ;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the District Magistrate* and the Sessions Judge ;

(*c*) when made by the District Magistrate* be made through the Sessions Judge ;

(*d*) when made by any Revenue Officer subordinate to the Chief Controlling Revenue Authority, be made through such Revenue Authorities as the Chief Controlling Revenue Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate, or Revenue Authority through whom or which it is made.

Note.

A charge of unprofessional conduct brought against a practitioner, holding a certificate under Act XVIII of 1879, having been found to be established by a Subordinate Court, which also considered that he, in consequence, should be dismissed, and the same having been reported, in conformity with sec. 14 of that Act, to the principal Court in the province, such dismissal was ordered. *Held*, that the practitioner could not be dismissed or suspended under that section without his having been allowed, under sec. 40, an opportunity of defending himself before that Court. It is within the duties of a Court, informed of the misconduct of one of the practitioners before it, to take steps to have the matter adjudicated upon.—I. L. R., 15 Cal. 152.

Power to call for record in case of acquittal under section 14.

15. The High Court, in any case in which a pleader or mukhtar has been acquitted under section 14 otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to make rules for mukhtars on appellate side of High Court.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (*a*),‡ any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(*a*) the qualifications and admission of proper persons to be mukhtars practising on the appellate side of such Court ;

(*b*) the fees to be paid for the examination and admission of such persons ;

* See Act X. of 1882, sec. 3. ‡ See Act XIV. of 1882, sec. 3.

(*c*) the security which they may be required to give for their honesty and good conduct ;

(*d*) the suspension and dismissal of such mukhtars ; and

(*e*) declaring what shall be deemed to be their functions, powers, and duties ;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees ; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.

Of Revenue Agents.*

Power to make rules as to qualifications, &c, of revenue agents.

17. The Chief Controlling Revenue Authority may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(*a*) the qualifications, admission, and certificates of proper persons to be revenue-agents ;

(*b*) the fees to be paid for the examination and admission of such persons ;

(*c*) the suspension and dismissal of such revenue-agents ; and

(*d*) declaring what shall be deemed to be their functions, powers, and duties.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Certificates to revenue-agents.

18. On the admission of any person as a revenue-agent under section 17, the Chief Controlling Revenue Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such revenue-offices as my be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate, renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such Authority in this behalf.

On every such renewal, the certificate then in the possession of such revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer, and shall continue in force to the end of the current year.

* Revenue-agents in Oudh may appear, plead, and act in suits under the Oudh Rent Act (XIX. of 1868).—See Act XVIII. of 1876, sec. 25, and the third clause of sec. 2 of this Act.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue Authority.

Enrolment of revenue-agent.

19. Every revenue-agent holding a certificate issued under section 18 may apply to be enrolled in any revenue-office mentioned therein, and situate within the limits of the territory under the Chief Controlling Revenue Authority; and, subject to such rules as the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a revenue-agent in such office and in any revenue-office subordinate thereto.

No person to act as agent in revenue-offices unless qualified.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a pleader duly qualified under the provisions hereinbefore contained shall practise as a revenue-agent in any revenue-office, unless he holds a certificate issued under section 18, and has been enrolled in such office or some other office to which it is subordinate:

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the authority or officer granting the same.

Dismissal of revenue-agent convicted of criminal offence.

21. The Chief Controlling Revenue Authority may suspend or dismiss any revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a revenue-agent.

Dismissal of revenue-agent guilty of unprofessional conduct.

22. The Chief Controlling Revenue Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when revenue-agent is so charged in subordinate office.

23. If any revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice

that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day, or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue Authority; and such authority shall proceed to acquit, suspend, or dismiss him.

Any Revenue Officer not inferior to a Collector, and, with the Collector's sanction, any Revenue Officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue Authority, suspend from practice any revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

Power to Chief Controlling Revenue Authority to call for record.

24. The Chief Controlling Revenue Authority, in any case in which a revenue-agent has been acquitted under section 23 otherwise than by an order of the Chief Controlling Revenue Authority, may call for the record, and pass such order thereon as seems fit.

CHAPTER V.

OF CERTIFICATES.

Fee for certificates.

25. Every certificate, whether original or renewed, issued under this Act, shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed, "and of such description as the Local Government may from time to time prescribe :"*

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

Dismissed practitioners to surrender certificates.

26. When any pleader, mukhtar, or revenue-agent, is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at

* The words quoted have been inserted by Act IX. of 1884, sec. 5.

the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue Authority (as the case may be) orders him to deliver the same.

CHAPTER VI.

OF THE REMUNERATION OF PLEADERS, MUKHTARS, AND REVENUE-AGENTS.

High Court and Chief Controlling Revenue Authority to fix fees on civil and revenue proceedings.

27. The High Court shall, from time to time, fix and regulate the fees payable by any party in respect of the fees of his adversary's advocate, pleader, vakil, mukhtar, or attorney upon all proceedings (*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in subordinate Courts, " and in respect of the fees of his adversary's revenue-agent appearing, pleading, or acting under section 10."*

The Chief Controlling Revenue Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the revenue-offices by any party in respect of the fees of his adversary's advocate, pleader, vakil, attorney, mukhtar, or revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20.

Nothing in this section applies to the agents mentioned in the proviso to section 20.

Notes.

The Legal Practitioner's Act does not debar a pleader from recovering a fee from his client when no contract in writing is made. A Small Cause Court having dismissed a suit brought by a pleader to recover from his client a fee claimed for the conduct of a suit, on the ground that such a suit would not lie, because it was based on an oral contract and such contract could not be enforced by reason of the provisions of the Legal Practitioner's Act, the High Court under sec. 622 of the Code of Civil Procedure reversed the decree of the Small Cause Court.—I. L. R., 9 Madr. 375.

Secs. 27, 28 and 29 of the Legal Practitioners Act (XVIII of 1879) do not relate to any arrangements or agreement made between a litigant and his own pleader as to the receipt of the fees which are actually allowed upon taxation. They do not provide as to matters which relate to the opposite party, or the fees that he has to pay to the legal practitioner of the opposite party, vut provide what, as between the pleader and his client, shall be the method in which certain special arrangements are to be entered into. They make provision for arrangements between pleaders and their clients, which relate to the payment of remuneration in excess of and apart from the amount allowed in the taxation ; and were framed upon the principle which regards with jealous scrutiny contracts brought about by persons holding positions of active confidence towards others, such as a pleader necessarily occupies in reference to his client. They

* The words quoted have been added by Act IX of 1881, sec. 6.

were intended to protect necessitous, improvident or careless litigants, from being taken advantage of by unscrupulous legal advises. Rama *v.* Kunji approved and followed.—12 Al. 169.

Agreements with clients.

28. No agreement entered into by any pleader, mukhtar, or revenue-agent with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such pleader, mukhtar, or revenue agent, shall be valid, unless it is made in writing, signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court, or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Notes.

A party to a suit made and delivered to his pleader in respect of his agreed fee a promissory note which was not filed in Court in that suit. In a suit by the pleader upon his promissory note :—*Held*, that the promissory note was invalid and that the plaintiff was entitled to recover only the amount to which he was found to be entitled for his labour.—I. L. R., 14 Madr. 63.

See I. L. R., 9 Madr. 375 & 12 Al. 169, noted under sec. 27.

Power to midify or cancel agreements.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges, and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

Note.

See I. L. R., 12 Al. 169, noted under sec. 27 ; 14 Madr. 63, noted under sec. 28.

Agreements to exclude further claims.

30. Such an agreement shall exclude any further claim of the pleader, mukhtar, or revenue-agent beyond the terms of the agreement with respect to any services, fees, charges, or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees, charges, or disbursements, if any, as are expressly excepted by the agreement.

Note.—See I. L. R., 9 Madr. 375 & 12 Al. 169, noted under sec. 27.

Reservation of responsibility for negligency.

31. A provision in any such agreement that the pleader, mukhtar, or revenue-agent, shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such pleader, mukhtar, or revenue-agent, shall be wholly void.

CHAPTER VII.

PENALTIES.

On persons illegally practising as pleaders, mukhtars, or revenue agents.

32. Any person who practises in any Court or revenue-office in contravention of the provisions of section 10 or section 20 shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as pleader, mukhtar, or revenue-agent whilst he has been contravening the provisions of either of such sections.

Note.

See I. L. R., 5 Al. 375, noted under sec. 10; 14 Cal. 556, noted under sec. 37 of the Civil Procedure Code.

On suspended or dismissed pleader, &c., failing to deliver certificate.

33. Any pleader, mukhtar, or revenue-agent failing to deliver up his certificate as required by section 26, shall be liable, by order of the Court, Authority, or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundered rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

34. Any pleader, mukhtar, or revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a pleader, mukhtar, or revenue-agent in any Court or revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of fines.

35. Every order under section 32, 33, or 34, shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue Authority where the order has been passed by an officer subordiante to such Authority.

Penalty for receiving or giving commission.

36. Whoever commits any of the following offences:—

(*a*) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered, or agreed to be paid or delivered, to any legal practitioner for such employment;

(*c*) being a legal practitioner, tenders, gives, or consents to the retention of, any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.

MISCELLANEOUS.

Local Government to appoint examiners.

37. To facilitate the ascertainment of the qualifications mentioned in sections 6 and 17 respectively, the Local Government shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

38. Except as provided by sections 4, 5, 16, 27, 32, and 36, nothing in this Act applies to advocates, vakils, and attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to mukhtars practising in such Court, or to advocates enrolled "under section 41 of this Act."*

Suspension or dismissal of person holding mukhtar and revenue-agent's certificates.

39. When any person who holds a certificate as a mukhtar under section 7, and a certificate as a revenue-agent under section 18, is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

Pleaders, &c., not to be suspended or dismissed without being heard.

40. Notwithstanding anything hereinbefore contained, no pleader, mukhtar, or revenue-agent, shall be suspended or dismissed under this Act, unless he has been allowed an opportunity of defending himself before the Authority suspending or dismissing him.

Note.—See I. L. R., 15 Cal. 152, noted under sec. 14.

Power for certain High Courts to enrol advocates.

41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

* The words quoted have been substituted for the words "by the Chief Court of the Panjab" by Act IX, of 1884, sec. 7.

(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

(3) The High Court may dismiss any advocate so enrolled or suspend him from practice.

(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjab, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government.*

Repeal of Acts I. of 1846 and XX. of 1853.

42. Act I. of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX. of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed.†

FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and date of Enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtars.	The whole.
Act XXIX of 1865.	To amend the Pleaders, Mukhtars and Revenue-agents Act, 1865.	So much as has not been repealed.
Act IX of 1866...	To extend to the Sadr Court of the North-Western Provinces certain provisions of the Pleaders, Mukhtars, and Revenue-agents Act, 1865, and of Act No. XXIX of 1865.	The whole.
Act IV of 1876...	To authorize Revenue-agents to practise in certain suits in the Munsif's Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877.	The Panjab Courts Act, 1877.	Sections 42, 43, 44, and 45.

* Sec. 41 has been substituted by Act IX. of 1884, sec. 8, for the one originally enacted.

† Sec. 42 has been added by Act IX. of 1884, sec. 9.

SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES.

(*See section 25.*)

I.

For a certificate authorizing the holder to practise as a pleader—

(*a*) In the High Court and any subordinate Court—rupees fifty :

(*b*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c*) In all other subordinate Courts—rupees twenty-five :

(*d*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars, in Courts of Small Causes outside the Presidency-towns, and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(*e*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a mukhtar—

(*f*) In the High Court and any subordinate Court—rupees twenty-five :

(*g*) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(*h*) In all other subordinate Courts—rupees fifteen :

(*i*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars, in Courts of Small Causes outside the Presidency-towns, and in all Criminal Courts subordinate to the High Court—rupees ten :

(*j*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a revenue-agent—

(*k*) In the office of the Chief Controlling Revenue Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(*l*) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(*m*) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

HIGH COURT RULES ON LEGAL PRACTITIONER'S ACT.

The following Rules, made by the High Court of Judicature at Madras, under Sections 6, 7, 8 and 27 of Act XVIII of 1879, in supersession of all previous Rules on the subject, shall take effect from the 18th day of March, 1892.

PRELIMINARY.

1. **Pleadership Certificates will not be granted to persons other than those duly qualified under these Rules,** except in the case of those persons

qualified under the old Rules whose names have been already registered for the issue of such certificates.

2. The right to practise in the Presidency Court of Small Causes is confined to the Pleaders at present duly enrolled therein and to Advocates, Vakils and Attorneys of the High Court.

CLASSES OF PLEADERS.

3. Pleaders in the Courts subordinate to the High Court shall be classed as—

(*a*) Pleaders of the First Grade.

(*b*) Pleaders of the Second Grade.

4. Pleaders of the First Grade shall be entitled to appear, plead and act in all the Civil and the Criminal Courts of the Districts in which their certificates authorize them to practise, as also in the Presidency Magistrates' Courts, provided they have been enrolled therein.

5. Pleaders of the Second Grade shall be entitled to appear, plead and act in any District Munsif's Court in which they are enrolled and in the Court of any District or Subordinate Judge, exercising the powers of a Court of Small Causes under Section 28 of the Madras Civil Courts Act, 1873, in which they are enrolled.

Pleaders of the Second Grade shall also be entitled to appear, plead and act in any Court of Criminal Jurisdiction in the District in which they are enrolled, other than the Sessions Court of the Division.

QUALIFICATIONS OF PLEADERS.

6. The following persons may be admitted as Pleaders of the First Grade :—

1st. Any person who shall have obtained the Degree of Bachelor of Laws of one of the Universities of Madras, Calcutta, Bombay, or Allahabad, provided that his application for admission as a Pleader be made within one year from the time of his obtaining such degree or within such further time as the High Court shall for any special reason allow.

2nd. Any person who shall produce a certificate from the Examination Board that he has passed, within one year, the examination prescribed from time to time by the High Court for the First Grade Pleadership Examination.

7. The following persons may be admitted as Pleaders of the Second Grade :—

Any person who shall produce a certificate from the Examination Board that he has passed, within one year, the examination prescribed from time to time by the High Court for the Second Grade Pleadership Examination.

8. Candidates for a Pleadership of either grade shall, until further orders of the Court, be examined in the following branches of the law in force in British India.

No.	*Subjects.*	*Regulations, Enactments and Text-books.*
1.	Law of Landlord and Tenant	Act VIII of 1865. Regulations XXV and XXVI of 1802 and IV of 1822. Act II of 1864 and Act III of 1884.

No.	*Subject.*	*Regulation, Enactments and Text-books.*
2.	Law of Transfer of Property and Easements.	Acts IV of 1882 and III of 1885, and the Commentary thereon by Shephard and Brown. Act V of 1882, and Michell's Law of Easements and Licenses in India.
3.	Civil Procedure and Law of Limitation ...	Act XIV of 1882 and all the amending Acts. Act XV of 1877 and all the amending Acts; Mitra's Commentary thereon.
4.	Criminal Procedure and Medical Jurisprudence	Act X of 1882 and all the amending Acts. Lyon's Medical Jurisprudence or Gribble's Outlines of Medical Jurisprudence or any other Standard work.
5.	Indian Penal Code ...	Act XLV of 1860 and all the amending Acts.
6.	Law of Evidence ...	Acts I of 1872 and III of 1887, and Cunningham's Commentary thereon.
7.	Hindu Law	Mayne's Hindu Law.
8.	Law of Contracts and Specific Relief ...	Act IX of 1872 and IV of 1886; and Acts XXVI of 1881 and II of 1885, and Commentary thereon by Cunningham and Shephard.
9.	Law of Trusts. ...	Act II of 1882, and Agnew on Trusts.
10.	Law of Torts	Pollock on Torts and Alexander's Case Law of Torts.

9. To qualify for a Pleadership of the First Grade a candidate is required to obtain not less than half the marks assigned by the Examination Board to each of the subjects Nos. 3, 4, and 5, not less than one third of the marks assigned by the Board to each of the subjects Nos. 6 and 7, and not less than half the aggregate marks assigned by the Board to the subjects of Examination.

To qualify for a Pleadership of the Second Grade a candidate is required to obtain not less than one third of the marks assigned by the Examination Board to each of the subjects Nos. 3, 4 and 5, not less than one fourth of the marks assigned by the Board to each of the subjects Nos. 6 and 7, and not less than one third of the aggregate marks assigned by the Board to the subjects of examination.

Any candidate, who on examination, fails to obtain the minimum of marks prescribed for qualification in the First Grade, will, if he obtains the minimum of marks prescribed for qualification in the Second Grade, be considered to have qualified for a Pleadership of the Second Grade.

10. The examination of the candidates of both Grades in all subjects shall be conducted in the English language only.

11. Persons possessed of the following qualifications shall be entitled to present themselves for the Pleadership Examination of the First Grade.

Any person producing certificate of having passed the First Examination in Arts of the Universities of Madras, Calcutta, Bombay or Allahabad, or the First Public Examination before Moderators at Oxford, or the Previous Examination at Cambridge, or the Preliminary Examination in Arts of one of the Irish or Scotch Universities, or the Matriculation Examination at the University of London, or certificate of having passed some other public examination which shall be certified by two Judges of the High Court as being in their opinion equivalent to one or other of the abovementioned Examinations.

At the Examination to be held in the year 1894 and at subsequent Examinations no person will be admitted as a candidate for the First Grade Pleadership Examination unless he shall produce together with the other certificates required by Rule 11 a certificate of having attended a full course of Lectures at the Madras Law College.

Note.—After the Pleadership Examination to be held in the year 1894, no person will be entitled to appear for the First Grade Pleadership Examination unless he shall have obtained the degree of Bachelor of Arts of one of the British Indian Univesities or shall have passed such examination at one of the English, Irish or Scotch Universities as may hereafter be declared to entitle him to admission to the Pleadership Examination of the First Grade.

12. Persons possessed of the following qualifications shall be entitled to present themselves for the Pleadership Examination of the Second Grade :—

(*a*) Persons who are qualified under a previous Rule to present themselves for the Pleadership Examination of the First Grade.

(*b*) Any person producing a certificate of having passed the Matriculation Examination of any British Indian University or the Madras Upper Secondary Examination or any Public Examination in the Bengal or Bombay Presidency which shall be accepted by two Judges of the Court as being in their opinion equivalent to the Upper Secondary Examination.

Note.—After the Pleadership Examination to be held in the year 1894, the words "First Examination in Arts of one of the British Indian Universities or other Examination which may hereafter be declared equivalent thereto" will be substituted for "Matriculation Examination of any British Indian University."

(*c*) Any person producing a certificate of having passed the Middle School Examination in the First Class, the late General Test Examination, English or Anglo-Vernacular Branch, or any Public Examination in the Bengal or Bombay Presidency, which shall be accepted by two Judges of the High Court as being in their opinion equivalent to the Middle School Examination, First Class.

Note.—After the Pleadership Examination to be held in the year 1894, this clause will be rescinded.

13. Applicants for examination for either Grade of Pleaderships must satisfy the Examination Board that they are of good moral conduct and must be above 20 years of age.

EXAMINATIONS.

14. Every candidate for the Pleadership Examination shall, on or before the 15th day of November, apply to the Examination Board for

leave to present himself at the ensuing Examination ; and he shall establish to their satisfaction that he possesses the qualifications prescribed for such candidates.

But candidates for the First Grade Pleadership Examination in 1894 and subsequent years will be allowed time up to the 10th December preceding to produce the certificate of attendance at the Law College. Such certificate, if not filed with the application, should be sent direct to the Deputy Registrar, High Court, Appellate Side.

15. Such application for the Pleadership is not to be transmitted to the Board direct, but it is to be filed on or before the 15th day of November in the Court of the District Judge within whose jurisdiction the candidate resides or is employed, and, in the case of candidates residing or employed within the limits of the Original Jurisdiction of the High Court, in the Office of the Deputy Registrar of the High Court, Appellate Side. In the case of candidates residing in foreign territory, the application should be forwarded direct to the Deputy Registrar of the High Court, Appellate Side, accompanied by a Treasury Receipt for the payment of the admission fee into any Treasury authorized to receive fees from candidates for the University or Special Test Examination in the Madras Presidency. The applicant should also state at what centre he desires to be examined. The application must be accompanied by the necessary documents and papers in original with the receipt of the Officer in charge of Government Treasury for the full fee for the examination, required by section 24 of the Rules.

The Judge or Deputy Registrar, as the case may be, shall thereupon satisfy himself as to the validity of the certificate of character presented by the candidate, and as to the identity of the candidate ; and he shall, on or before the 1st day of December, transmit to the Examination Board all such application with the documents accompanying, together with a list of the applications and annexures, and with his opinion in each case as to the sufficiency of the testimonials produced, and any other information which he may think it needful in any case to communicate.

16. The Board shall thereupon take the case of each candidate, with the report of the District Judge or Deputy Registrar, into their consideration, and shall determine whether or not the candidate is possessed of the necessary qualifications. If the candidate is found qualified, the Examination Board shall cause his name, the name of his father, his age, place of residence, and other needful particulars, to be entered in a Register of persons permitted to appear at the Examination.

17. An extract from the Register shall be forwarded to the District Judge or Deputy Registrar, with a declaration that the candidate is permitted to appear at the next ensuing examination at———for delivery to him. The Judge or Deputy Registrar shall cause a notice of his having received such extracts to be posted on a notice-board in the Court House, and shall deliver them to the candidate on application. And it shall be the duty of the candidate on the day fixed for the examination to produce such extract, when called upon, to the Officer appointed by Government to preside and superintend at the Examination.

The District Judge, in carrying out this Rule, shall conform to such instructions as he may receive from the Examination Board through their President or Secretary.

ADMISSION.

18. Any person, who shall have qualified under these Rules, and who shall desire to be admitted to practise, shall pay into the Government Treasury of the District in which he shall intend ordinarily to practise, the admission fee prescribed, and shall, on presentation of the certificate of the Examination Board or of his diploma, of the receipt for the said fee, and of a stamp paper* of the necessary value for his first certificate of practice, be entitled to apply to the High Court for admission, stating in what Court he desires to practise with reference to Part I of the Second Schedule of Act XVIII of 1879.

19. The application, together with the certificate or diploma, the receipt, and the stamp paper required by Rule 18, shall be presented to the Judge of the District in which the applicant intends ordinarily to practise, and shall be forwarded by the Judge to the Registrar of the High Court, with such remarks as he may think fit to make thereon. The name of the applicant and his place of abode, together with his father's name and place of abode, shall be affixed in some conspicuous place in the Court-house of the Judge to whom the application is sent, and also in the High Court at least six weeks before the applicant is admitted to practise.

20. The High Court may call for evidence of the respectability of the applicant, in any case in which it may be deemed necessary.

CERTIFICATES.

21. Upon the applicant being admitted by the High Court, the Registrar of the High Court shall cause his name to be entered in the proper register, and shall issue to him a certificate as required by Section 7 of Act XVIII of 1879, authorizing him to practise, up to the end of the calendar year, in the Courts specified therein.

Provided that,

(*a*). in no certificate issued to a Pleader of the First Grade shall Courts in more than three adjacent Districts be specified and

(*b*). in no certificate issued to a Pleader of the Second Grade shall Courts in more than one District be specified.

On the renewal of certificates, except with the special sanction of the High Court, those Districts and Courts only shall be entered which were entered in the certificate in the preceding year subject to the foregoing provisos.

22 The certificate shall bear the number assigned to it in the Register, and shall be signed by the Registrar and forwarded to the District Judge to be delivered to the applicant.

The certificate shall be taken to authorize enrolment in the Courts specified therein. The holder can take it to any Court therein mentioned, and may, with the approval of the presiding Judge, be enrolled in such Court. The approval should not be withheld, unless the Judge is aware of circumstances which in his judgment affect the professional character of the applicant; and in any case in which enrolment is refused, the fact and the reasons for it should be communicated forthwith to the High Court.

23. Any pleader who may apply for the renewal of his certificate under sec. 7, Act XVIII of 1879, unless he has been ordinarily practising in the Court of the District Judge authorized to renew certificates, shall, with his application, file a certificate of character from the Judge presiding

* Under the General Stamp Act [G. O., 18th August 1884, No. 2061, and H. C. Circular, 24th February 1885, No. 558].

in the Court in which the applicant ordinarily practises. The Munsif or Subordinate Judge may forward the application for a renewed certificate to the District Judge. Before the applicant can be refused a renewal of his certificate, it must be shown, 1st—That he has been guilty of professional misconduct; or 2nd—That he has committed a criminal offence.

FEES.

24. The fees payable previous to examination and on application for enrolment, shall be as follows :—

	1st Grade Pleadership.	2nd Grade Pleadership.
For examination ...	Rs. 35	Rs. 35
For admission ...	„ 7	„ 5

PENALTIES.

25. If any person, having passed the examination entitling him to be admitted and enrolled as a Pleader, shall fail to apply for such admission and enrolment for a period of one year from the time of passing the examination, he shall not be admitted and enrolled, except by special order of the High Court.

26. If any person, having obtained a certificate, shall fail to renew it for a period of two years, he shall not be entitled to have it renewed, without the orders of the High Court.

27. If any person shall hold any appointment under Government, or shall carry on any trade or other business, at the time of his application for admission as a Pleader, he shall state the fact in his application for admission, and the High Court may refuse to admit such person, or pass such orders thereon as it thinks proper. Save on the conditions mentioned hereunder, the High Court will not grant Pleadership certificates to persons holding Judicial or other office under Government—

(1) The applicant must be prepared to resign his appointment *on receipt of his Pleadership certificate.*

(2) The applicant must obtain leave of absence from his official superior with the object of practising as a Pleader. In this case, the certificate is granted only on condition of its being returned for cancellation should the applicant revert to his appointment under Government.

28. If any person, having been admitted as a Pleader, accepts any appointment under Government, or enters into any trade or other buisness, or accepts employment as a Law Agent other than a Pleader, Muktar or Agent certified under Act XVIII of 1879 and these rules, he shall give immediate notice thereof to the High Court, who may thereupon suspend such Pleader from practice or pass such orders as the said Court may think fit.

Provided that when a Pleader is appointed by or under the authority of the High Court to the office of District Munsif, whether temporarily or permanently, it shall not be necessary to give the notice prescribed in the first part of this Rule; but no Pleader while employed as District Munsif shall be permitted to practise or do any business as a Pleader before any Court.

29. Any wilful violation of any of the above Rules shall subject a Pleader to suspension or dismissal.

Fees payable in respect of an adversary's Advocate, Vakil, Attorney or Pleader, on the Appellate Side of the High Court and in Subordinate Courts, under Section 27, Act XVIII of 1879.

30. Save by special leave of the Court, and except in the case of an Advocate, Vakil, Attorney or Pleader appearing on behalf of Government, no fee shall in any case be entered as recoverable in a decree or order except on production of a certificate from the Advocate, Vakil, Attorney or Pleader that he has received such fee.

31. In suits, or in appeals from original or appellate decrees in suits, for money, effects, or other personal property, or for land or other immoveable property of any description, fees shall be payable on the following scale :—

(*a*) When such suits or appeals are decided on the merits after contest, or are compromised subsequent to the settlement of issues and after a partial or complete trail but before delivery of judgment, or where such appeals are decided *ex parte*,

(i) If the amount or value of the claim shall not exceed Rs. 5,000, 5 per cent.

(ii) If the amount or value shall exceed Rs. 5,000, and shall not exceed Rs. 20,000, on Rs. 5,000 as above, and on the remainder, 2 per cent.

(iii) If the amount or value shall exceed Rs. 20,000, and shall not exceed Rs. 50,000, on Rs. 20,000, as above, and on the remainder 1 per cent.

(iv) If the amount or value shall exceed Rs. 50,000, and shall not exceed Rs. 80,000, on Rs. 50,000 as above, and on the remainder, $\frac{1}{2}$ per cent.

(v) If the amount or value shall exceed Rs. 80,000, Rs. 1,000.

(*b*) When such suits are decided *ex-parte*, or when such suits or appeals are decided on confession of judgment, or are dismissed for default after all the requisite pleadings have been filed or are compromised after the settlement of issues but before trail.

(i) If the amount or value of the claim shall not exceed Rs. 5,000, not exceeding $2\frac{1}{2}$ per cent.

(ii) If the amount or value shall exceed Rs. 5,000, and shall not exceed Rs. 20,000, on Rs. 5,000 as above, and on the remainder, not exceeding 1 per cent.

(iii) If the amount or value shall exceed Rs. 20,000, and shall not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, not exceeding $\frac{1}{2}$ per cent.

(iv) If the amount or value shall exceed Rs. 50,000, and shall not exceed Rs. 80,000, on Rs. 50,000 as above, and on the remainder, not exceeding $\frac{1}{4}$ per cent.

(v) If the amount or value shall exceed Rs. 80,000, not exceeding Rs. 500.

32. In suits or appeals, withdrawn or compromised, (*a*) before any defence is put in, (*b*) before the settlement of issues but after defence is put in, or dismissed for default without a determination on the merits of

the case before all the requisite pleadings have been filed in Court, and in appeals from orders, re-hearing on review and other miscellaneous cases, including proceedings in execution of decree, fees shall be payable on the following scale :—

(i) If the amount or value of the claim shall not exceed Rs. 5,000, $1\frac{1}{4}$ per cent.

(ii) If the amount or value shall exceed Rs. 5,000, and shall not exceed Rs. 20,000, on Rs. 5,000, as above, and on the remainder, $\frac{1}{2}$ per cent.

(iii) If the amount or value shall exceed Rs. 20,000, and shall not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder, $\frac{1}{4}$ per cent.

(iv) If the amount or value shall exceed Rs. 50,000, and shall not exceed Rs. 80,000, on Rs. 50,000 as above, and on the remainder, $\frac{1}{8}$ per cent.

(v) If the amount or value shall exceed Rs. 80,000, Rs. 250.

(vi) In applications for execution of decrees, the fee shall be calculated on the amount realized by the application.

(vii.) In all miscellaneous applications after decree which are decided on the merits after contest, except such as have been hereinbefore specially provided for, a reasonable fee, not in any case exceeding Rs. 20 in the High Court, or Rs. 10 in a Court Subordinate to the High Court, shall be allowed.

33. The words "the amount or value of the claim" in Rules 31 and 32 mean the value as set forth in the Plaint or Memorandum of Appeal, and, where Court Fees are payable *ad valorem*, the value on which such Court Fees are paid.

34. Fractions of a Rupee in the amount or value of a claim are to be rejected in calculating the fee payable thereupon.

35. In cases in which the subject-matter of the claim does not admit of valuation, the Court, or, in the case of the High Court, the Taxing Officer, shall fix a reasonable fee, regard being had to the time occupied in the preparation and hearing of the case and the nature of the questions raised therein.

36. If several defendants or respondents, who have a joint or common interest, succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order for a reason which shall be recorded in the judgment. If only one fee be allowed, the Court shall direct to which of the defendants or respondents it shall be paid, or shall apportion it among the several defendants or respondents in such manner as the Court shall think fit.

37. If several defendants or respondents, who have separate interests, set up separate and distinct defences and succeed thereon, a fee for one legal practitioner for each of the defendants or respondents who shall appear by a separate legal practitioner may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant, or respondent, in the manner hereinbefore prescribed.

38. For each fee allowed under the two last preceding Rules, the value of the stamp on one Vakalatnama only shall be awarded as costs.

39. Except where an adjournment is made with the consent of all parties, or where from insufficiency of notice, a party has not had reasonable time to prepare himself for trial, or where the adjournment is necessitated by a cause beyond the control of the party, an adjournment should not be granted save on the condition that the party applying pay all the costs of the day, including a reasonable fee to the legal practitioner engaged by his adversary. In a District Munsif's Court, a sum not exceeding Rs. 5, and in a Subordinate Judge's Court and a District Court, a sum not exceeding Rs. 10, shall be deemed to be a reasonable fee within the meaning of this Rule.

40. The fee allowed on the percentage scale for prosecuting or defending a suit is intended to cover all proceedings up to decree; and where a suit is remitted for re-hearing and disposal or for a finding on issues, the proceedings on such order must be regarded as a further proceeding in the trial of the suit, and no further fee can be allowed in respect of such proceedings.

PRESIDENCY SMALL CAUSE COURT.

41. Where costs are awarded by the Court, and where the certificate prescribed in para 30 of these Rules has been obtained, the fees payable in respect of an adversary's Advocate or Attorney in the Presidency Court of Small Causes, shall be as follows :—

(*a.*) In suits not exceeding Rs. 500 in value—

In respect of an Advocate, a fee not exceeding	...Rs.	30
In respect of an Attorney, a fee not exceeding	... „	25

(*b.*) In suits exceeding Rs. 500 but not exceeding Rs. 1,000—

In respect of an Advocate, a fee not exceeding	... „	85
In respect of an Attorney, a fee not exceeding	... „	51

(*c.*) In suits exceeding Rs. 1,000—

In respect of an Advocate, a fee not exceeding	... „	100
In respect of an Attorney, a fee not exceeding	... „	60

42. The following scale of Pleader's fees shall ordinarily be observed :—

SCALE OF PLEADERS' FEES.

In suits not exceeding Rs. 10 in value, a fee not exceeding Rupee	...	...	...		1
In suits exceeding Rs. 10 and not exceeding Rupees			20	Rupees	2
„ 20	„		50	„	4
„ 50	„		100	„	7
„ 100	„		200	„	10
„ 200	„		300	„	15
„ 300	„		400	„	20
„ 400	„		500	„	25
„ 500	„		700	„	30
„ 700	„		800	„	35
„ 800	„		1,000	„	40

In suits exceeding Rupees 1,000 in value, Rupees 2 for every Rs. 100 or fraction of Rupees 100 in excess of Rupees 1,000.

43. Fees shall be fixed at the termination of a suit, and, except as hereinafter mentioned (Rule 44), shall be in full of all trouble and attendances

bestowed, but exclusive of any compensation which may be granted under Section 42 of Act IX of 1850, or under Section 15 of Act I of 1875.

44. Except where an adjournment is made with the consent of all parties, or where from insufficiency of notice, a party has not had reasonable time to prepare himself for trial, or where the adjournment is necessitated by a cause beyond the control of the party, an adjournment should not be granted save on the condition that the party applying pay all the costs of the day including a reasonable fee, not exceeding Rs. 10, to the legal practitioner engaged by his adversary.

45. Except by special leave of the Court, fees shall not be allowed in cases entered as compromised, or in any case where the defendant, three days before the day of hearing, has intimated to the Court his intention not to contest the plaintiff's demand. In cases decided *ex parte*, or when the defendant confesses judgment, or where a number of suits by the same plaintiff are summarily disposed of in succession, the Court will exercise its discretion in granting fees.

46. In respect of claims and proceedings under the Distress Act (I of 1875) and other miscellaneous proceedings, the Court may order for an Advocate, Attorney or Pleader, such fee as it thinks fit, provided that it will ordinarily be guided by the scales contained in these rules, and that the highest rate of fee allowed is in no case exceeded.

47. For the purpose of determining the fee to be allowed in suits for ejectment, the amount of one year's rent, and in other suits or proceedings the amount of debt or damage claimed, or value of the property in dispute, shall be taken to be the value of the suit.

48 Fees shall not be allowed in any case unless by order of the Judge and he shall determine and certify in each case what fee or fees shall be allowed, and by whom they shall be paid.

49. "Pleader" includes every legal practitioner entitled to practise before a Judge, not being an Advocate or Attorney.

MOFUSSIL SMALL CAUSE COURTS.

50. In suits under Act XI of 1865 (Mofussil Small Cause Courts' Act) no fees shall be allowed between party and party unless the Judge shall certify, at the time of the trial, that the case was a proper one for the employment of a regularly authorized Pleader. When allowed, Rupees 5 may be the fee recoverable by the party employing such Pleader, and no fee shall be allowed for the assistance of any other person. If an Advocate, instructed by an Attorney, or if a Vakil of the High Court shall appear, the fees as aforesaid shall be Rupees 15 and Rupees 10 respectively, in cases where the Judge certifies as above.

51. Where a pleader is employed merely to obtain execution of a decree, one Rupee shall be allowed as costs for that purpose in claims below Rupees 100, and two Rupees in claims above that amount. In case of a second or other further application to obtain execution of a decree, the fee to be allowed shall be one-fourth of the fee allowable on the first application.

GENERAL.

52. Legal Practitioners may, whether in Civil or Criminal cases, address the Court in English, either with the consent of the Court and both parties, or without such consent where due provision is made by the English speaker for the interpretation, if necessary, of what he says into the language of the Court.

FORMS OF CERTIFICATES.

53. The certificates and renewed certificates to be issued to Pleaders under the Legal Practitioners' Act, 1879, shall be in the following forms :—

I.

ACT XVIII of 1879.

Clause (*c*), Part I, Schedule II.

Pursuant to the Legal Practitioners' Act, 1879, I hereby certify that , son of , has been admitted a Pleader of the First Grade, and is authorized to appear, plead and act in the District Court of; and in all Courts of Civil Jurisdiction subordinate to such District Court; and in all Courts of Criminal Jurisdiction in the said District of , up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

II.

ACT XVIII of 1879.

Clause (*d*), Part I, Schedule II.

Pursuant to the Legal Practitioners' Act, 1879, I hereby certify that , son of , has been admitted a Pleader of the Second Grade, and is authorized to appear, plead and act in the District Munsif's Court of in the District of and on the Small Cause Sides of the District and Subordinate Judges' Courts in the said District of and in all Courts of Criminal jurisdiction in the said District of other than the Sessions Court of the Division, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

III.

Act XVIII of 1879.

Clause (*b*), Part I, Schedule II.

Pursuant to the Legal Practitioners' Act, 1879, I hereby certify that , son of , has been admitted a Pleader, and is authorized to appear, plead and act in the Presidency Court of Small Causes, Madras, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

IV.

Act XVIII of 1879.

Caluse (*c*), Part I, Schedule II.

Pursuant to the Legal Practitioners' Act, 1879, I hereby certify that , son of , has been admitted a Pleader, and is authorized to appear, plead and act in the Presidency Magistrates' Courts, Madras, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

V.

ACT XVIII of 1879.

Clause (*d*), Part I, Schedule II.

The Certificate issued under the signature of on the day of to , son of , a Pleader of the First Grade, having been cancelled and retained by me, this renewed Certificate is issued, authorising the said to appear, plead and act in the District Court of and in all Courts of Civil Jurisdiction subordinate to such District Court, and in all Courts of Criminal Jurisdiction in the said District of ' up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of .

VI.

ACT XVIII of 1879.

Clause (*d*), Part I, Schedule II.

The Certificate issued under the signature of on the day of to , son of a Pleader of the Second Grade, having been cancelled and retained by me, this renewed Certificate is issued authorising the said to appear, plead and act in the District Munsif's Court of in the District of and on the Small Cause Sides of the District and Subordiante Judges' Courts in the said District of and in all Courts of Criminal Jurisdiction in the said District of other than the Sessions Court of the Division, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

VII.

ACT XVIII of 1879.

Clause (*d*), Part I, Schedule II.

The Certificate issued under the signature of on the day of to , son of , a Pleader of the Presidency Court of Small Causes, Madras, having been cancelled and retained by me, this renewed Certificate is issued, authorizing the said to appear, plead and act in the Presidency Court of Small Causes, Madras, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

VIII.

ACT XVIII of 1879.

Clause (*c*), Part I, Schedule II.

The Certificate issued under the signature of on the day of to , son of , a Pleader of the Presidency Magistrates' Courts, Madras, having been cancelled and retained by me, this renewed Certificate is issued, authorizing the said to appear, plead and act in the Presidency Magistrates' Courts, Madras, up to the end of the current Calendar year.

Given under my hand and the seal of the Court, this day of

POWERS OF ATTORNEY.

ACT No. VII. OF 1882.

PASSED ON THE 24TH FEBRUARY 1882.

An Act to amend the law relating to Powers-of-Attorney.

Preamble. For the purpose of amending the law relating to Powers-of-Attorney ; It is hereby enacted as follows :—

Short title. 1. This Act may be called " The Powers-of-Attorney Act, 1882 :"

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

Commencement. and it shall come into force on the first day of May 1882.

Execution under power of attorney. 2. The donee of a power of-attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers of-attorney created by instruments executed either before or after this Act comes into force.

Note.

An instrument authorizing a person to receive on behalf of another such sums as should become due in the course of the execution of a certain work is not an assignment of money, but a power-of-attorney, and is covered by a stamp of Rs. 8, whatever may be the amount recoverable under it. [General Stamp Act XVIII of 1869, sch. ii., art 32.]—I. L. R., 3 Bom. 49.

Payment by attorney under power, without notice of death, &c., good. 3. Any person making or doing any payment or act in good faith, in pursuance of a power of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency, or revocation, was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid ; and that person shall have the like remedy against the payee as he would have had against the payer, if the payment had not been made by him.

The section applies only to payments and acts made or done after this Act comes into force.

Notes.

Under a power-of-attorney containing a cause empowering A to sell or mortgage the donor's property for the payment of his debts, A executed a simple money-bond to one of the donor's creditors for payment of the sum due and interest. *Held* that the act was *extra vires*, and did not bind the donor.—I. L. R., 7 Cal. 253.

A person holding a power-of-attorney, even if authorized by the power to appear and defend suits on behalf of his principal, is at liberty to refuse to accept service of summons and appear in a suit brought against his principal, but may either act upon the power or not as he may think proper.—8 Cal. 317.

W gave to A and B a power-of-attorney authorizing them jointly, and severally to "negotiate, make sale, dispose of, assign, and transfer," amongst other things, certain Government securities standing in his name. B pledged the securities for an advance of Rs. 19,000, and at the same time executed a promissory note for the amount of the loan, the promissory note being signed "B, as attorney for W." In a suit by W to recover the Government securities: *Held* in the Court below that the power-of-attorney was sufficiently wide to cover the transaction; that the transaction was a fraud on the part of B, but that the transferee (the defendant) had no notice of the fraud, and therefore the plaintiff was not entitled to succeed. *Held* on appeal *per* WHITE, J.:—(i) That the words of the power were to be read disjunctively, and the powers conveyed by the words were to be treated as joint and several; (ii) that even supposing the word 'negotiate' to be applicable to transactions with Government securities (which was doubtful) and that such Government securities stood in the same position as ordinary commercial notes, the word 'negotiate' did not authorize B to do more than put the Government securities in the market, or to put them in circulation in the ordinary way in which such a transaction takes place in the market, and, if necessary, to endorse them in the name of W; (iii) that the loan, which was the principal transaction, being irrecoverable from W, because unauthorized, the defendant could not retain the Government securities, which were deposited as security for the loan, he not having taken the precaution to ascertain whether B had authority to enter into the transaction. *Per* GARTH, C. J.—That although, on the authority of the Bank of Bengal *v.* Fagan (5 Moore's I. A. 27), a power to negotiate Government securities would authorize the negotiation of Government securities by way of pledge, yet W was entitled to a decree, on the ground that A and B had no power, under the power-of-attorney, to borrow money in the name of W; and that, therefore, the defendant was not entitled to retain the security given for the advance (*viz.*, the Government promissory note.)—8 Cal. 934.

Deposit of original instruments creating powers-of-attorney.

4. (*a*) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration, or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(*b*.) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so depo

sited; and a certified copy thereof shall be delivered out to him on request.

(*c.*) A copy of an instrument so deposited may be presented at the office, and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(*d.*) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(*e.*) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (*a*), (*b*), and (*c*).

(*f.*) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

(*g.*) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

Power-of-attorney of married woman.

5. A married women, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument, or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. [*Repealed by Act XII. of 1891.*]