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Government of Madras

LAW (DRAFTING) DEPARTMENT

THE MADRAS CODE

IN FOUR VOLUMES

VOLUME II

THE UNREPEALED REGULATIONS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL, THE UNREPEALED LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL AND OF THE INDIAN LEGISLATURE AND THE REGULATIONS UNDER THE GOVERNMENT OF INDIA ACT, 1870

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CHRONOLOGICAL TABLE.

VOLUME II.

PART IV.

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature.

Year.	Number.	Short title.	Repeal and amendments.	Page.
1862	IV	The Madras Enfranchised Inams Act, 1862.	Repealed in part and amended, XI of 1901, s. 3.	285
1864	II	The Madras Revenue Recovery Act, 1864.	Repealed in part, XII of 1873. Amended, Madras Act III of 1884 ; Madras Act I of 1897 ; Madras Act I of 1909. Repealed in part and amended, Madras Act VIII of 1914, s. 2. Amended, IV of 1922.	286-303
1865	I	The Madras District Limits Act, 1865.	Repealed in part, III of 1873 ; XI of 1901, s. 3.	303
	V	The Madras District Police (Amendment) Act, 1865.	....	304-30
	VI	The Madras Official Seals Act, 1865.	Repealed in part, XII of 1873.	305
	VII	The Madras Irrigation Cess Act, 1865.	Amended, Madras Act V of 1900 ; Madras Act II of 1913 ; Madras Act VIII of 1914 ; s. 2 ; and Madras Act II of 1916 ; Repealed in part, Madras Act VI of 1920 ; *See* Madras Act XVI of 1933.	306-307
1866	II	The Madras Cattle Disease Act, 1866.	Amended, Madras Act I of 1879 ; Madras Act VIII of 1914, s. 2 and Madras Act III of 1921.	308-312
	IV	The Madras Enfranchised Inams Act, 1866.	....	313
1867	I	The Madras General Clauses Act, 1867.	Repealed in part, XVI of 1874. *See* Madras Act I of 1891, s. 2.	314-315
	VI	The Madras City Land Revenue (Amendment) Act, 1867.	Repealed in part, XII of 1873.	315-321
1869	III	The Madras Revenue Summonses Act, 1869.	....	322-323
	VII	The Moplas Outrages Act Continuance Act.	....	323
	VIII	The Madras Inams Act, 1869.	....	324-325
1873	I	The Madras Wild Elephants Preservation Act, 1873.	Repealed as to Coorg, Regulation I of 1881 ; amended, Madras Act XXIV of 1933.	325-327

PART IV—*cont.*

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
1876	I	The Madras Land Revenue Assessment Act, 1876.	Repealed in part, XI of 1901, s. 3. Amended, Madras Act II of 1914 and Madras Act VIII of 1914, s. 2.	327–329
1878	VII	The Madras Municipal Police Act, 1878.	Repealed in part, XI of 1901, s. 3.	329–330
	VIII	The Madras Coffee-stealing Prevention Act, 1878.	Amended, Madras Act II of 1900.	330–334
1879	I	The Madras Cattle Disease (Amendment) Act, 1879.	....	335
	II	The Nilgiris Game and Fish Preservation Act, 1879.	....	335–338
1881	I	The Madras Ports Police Act, 1881.	Repealed in part, XI of 1901, s. 3.	338–341
1882	V	The Madras Forest Act, 1882.	Validated, XXI of 1882. Amended, Madras Act VIII of 1914, s. 2; Madras Act VII of 1919; Madras Act I of 1934.	341–367
1884	III	The Madras Revenue Recovery (Amendment) Act, 1884.	....	368
	VI	The Madras Rivers Conservancy Act, 1884.	Amended, Madras Act II of 1885.	368–374
1885	II	The Madras Rivers Conservancy (Amendment) Act, 1885.	....	375
	III	The Madras Out-ports Landing and Shipping Fees Act, 1885.	Amended, Madras Act VIII of 1914, s. 2 and Madras Act I of 1916; Madras Act V of 1919. *See* Act X of 1931.	375–378
1886	I	The Madras Abkari Act, 1886.	Repealed in part and amended, Madras Act I of 1913. Amended, Madras Acts I of 1905, I of 1915 and XVIII of 1929; II of 1930.	379–410
	IV	The Railway Protection Act, 1886.	....	411–415
1888	I	The Local Authorities Loan Act, 1888.	Repealed in part, XI of 1901, s. 3; Amended, XXXVIII of 1920.	415–417
	II	The Places of Public Resort Act, 1888.	Repealed in part, XI of 1901, s. 3.	417–420
	III	The Madras City Police Act, 1888.	Repealed in part, XI of 1901; Madras Acts IV of 1905 and V of 1930. Amended, Madras Act III of 1898; Madras Acts III of 1907, XIII of 1929; VI and XIII of 1933.	420–441

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
1889	I	The Madras Village Courts Act, 1888.	Repealed in part, XI of 1901, s. 3 ; Amended Madras Acts IV of 1904, s. 3 ; II of 1920, XV of 1929 and XV of 1935.	441-459
	III	The Town Nuisances Act, 1889.	Repealed in part, XI of 1901, s. 3 ; Madras Act III of 1930. Amended, Madras Act III of 1909.	459-463
	IV	The Madras Salt Act, 1889.	Repealed in part, XI of 1901, s. 3. Repealed in part and amended, Madras Act VIII of 1914, s. 2 ; Madras Act IX of 1920 ; India Acts XXII of 1925, VI of 1927 and XIX of 1928.	463-489
1890	II	The Canals and Public Ferries Act, 1890.	Repealed in part, XI of 1901, s. 3. Amended, Madras Act II of 1895 ; Madras Act V of 1914 and Madras Act VIII of 1914, s. 2.	489-494
1891	I	The Madras General Clauses Act, 1891.	Amended, Madras Acts II of 1896 and XI of 1920.	494-502
1893	II	The Madras Inland Customs (Amendment) Act, 1893.	....	502
	V	The Madras Revenue Enquiries Act, 1893.	....	503
1894	I	The Madras Board of Revenue Act, 1894..	Repealed in part, XI of 1901, s. 3.	504
	II	The Madras Proprietary Estates' Village-service Act, 1894.	Repealed in part, Madras Act IV of 1911, s. 2. Repealed in part and amended, Madras Act III of 1914. Amended, Madras Act III of 1895 ; Madras Act IV of 1900, s. 1 ; Madras Act VII of 1930.	505-515
1895	II	The Madras Canals and Public Ferries (Amendment) Act, 1895.	....	516
	III	The Madras Hereditary Village Offices Act, 1895.	Repealed in part, XI of 1901. Repealed in part and amended, IV of 1907. Amended, Madras Acts II of 1897 and VII of 1930.	516-527
1896	I	The Madras Rent Recovery (Amendment) Act, 1896.	....	528
	II	The Madras General Clauses (Amendment) Act, 1896.	....	528
	III	The Malabar Land Registration Act, 1895.	Amended, Madras Acts I of 1920 and II of 1935.	529-533

PART IV—*cont.*

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
1896 —*cont.*	IV	The Malabar Marriage Act, 1896.	Amended, Madras Act I of 1898. Repealed in so far as it is applicable to Hindus following the Marumakkattayam law of inheritance by Madras Act XXII of 1933, s. 2.	534–542
1897	I	The Madras Revenue Recovery (Amendment) Act, 1897.	....	542
	II	The Madras Hereditary Village Offices (Amendment) Act, 1897.	....	543
1898	I	The Malabar Marriage (Amendment) Act, 1898.	....	543
	III	The Madras City Police (Amendment) Act, 1898.	....	544
	V	The Malabar Wills Act 1898.	....	544–547
1899	III	The Madras Registration of Births and Deaths Act, 1899.	....	547–552
	IV	The Madras Court of Wards (Amendment) Act, 1899.	Repealed (except in scheduled Districts), Madras Act I of 1902.	552
1900	I	The Malabar Compensation for Tenants' Improvements Act, 1899.	Repealed in part, XI of 1901.	552–558
	II	The Madras Coffee-stealing Prevention (Amendment) Act, 1900.	....	558–559
	IV	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.	....	559
	V	The Madras Irrigation Cess (Amendment) Act, 1900.	....	559–560
1902	I	The Madras Court of Wards Act, 1902.	Amended, Madras Act I of 1911; XXXVIII of 1920; and Madras Act XVII of 1933.	560–583
1904	II	The Madras Impartible Estates Act, 1904.	Amended, Madras Acts VI of 1909, III of 1934 and XII of 1934. *See* Madras Acts II of 1918, VII of 1926, V of 1928, VIII of 1929, IX of 1929, IX of 1930, I of 1933, II of 1933 and IX of 1933.	584–591
	IV	The Madras Village Panchayats' Regulation and the Madras Village Courts (Amendment) Act, 1904.	....	592
1905	I	The Madras Abkari (Amendment) Act, 1905.	....	592–593

PART IV—*cont.*

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature—CONT.

Year.	Number.	Short title.	Repeals and amendments.	Page.
1905 —*cont.*	II	The Madras Port Trust Act, 1905.	Amended, Madras Acts II of 1915, II of 1919, IV of 1923 and VII of 1929. Repealed in part, Madras Act IV of 1919.	593–632
	III	The Madras Land Encroachment Act, 1905.	Amended, Madras Act, VIII of 1914, s. 2.	632–637
	IV	The Madras City Police Act (Amendment) Act, 1905.	....	638
1907	III	The Madras City Police (Amendment) Act, 1907.	....	638–639
1908	I	The Madras Estates Land Act, 1908.	Amended, Madras Acts IV of 1909 and VIII of 1934.	639–733
1909	I	The Madras Revenue Recovery Amendment Act, 1909.	....	733–734
	II	An Act to repeal the Madras Labour and Emigration Act, 1866.	....	734
	III	The Madras District Police and Towns Nuisances Acts Amendment Act, 1909.	....	734–735
	IV	The Madras Estates Land Act (Amendment) Act, 1909.	....	735–736
	VI	The Arni Jagir Act, 1909.	....	736
1911	I	The Madras Court of Wards Act (1902) (Amendment) Act, 1910.	....	737
	IV	The Limited Proprietor Act, 1911.	....	737–740
	V	The Madras Hackney Carriage Act, 1911.	Amended, Madras Act III of 1924.	741–753
1913	I	The Madras Abkari (Amendment) Act, 1913.	....	753–756
	II	The Madras Irrigation Cess (Amendment) Act, 1913.	Amended, Madras Act II of 1916; Madras Act VI of 1920.	756–757
1914	I	The Hindu Transfers and Bequests Act, 1914.	Amended, XXI of 1929.	757–758
	II	The Madras Land Revenue Assessment (Amendment) Act, 1914.	....	758–759
	III	The Madras Proprietary Estates Village Service (Amendment) Act, 1914.	....	759–760

PART IV—*cont.*

Unrepealed Acts of the Governor of Fort St. George in Council and of the Local Legislature—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
1914—*cont.*	IV	The Madras Medical Registration Act, 1914.	Amended, Madras Acts X and XIV of 1929 and IX of 1932.	761–767
	V	The Canals and Public Ferries (Amendment) Act, 1914.	....	708
	VII	The Madras Deputy Collectors Act, 1914.	....	768–769
	VIII	The Madras Decentralization Act, 1914.	Repealed in part, Madras Act V of 1920; Madras Act XIV of 1920.	769–772

THE MADRAS CODE

VOLUME II.

PART IV.

ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL AND OF THE LOCAL LEGISLATURE.

MADRAS ACT No. IV OF 1862.

[THE MADRAS ENFRANCHISED INÁMS ACT, 1862.][1]

[*15th May* 1862; *12th June* 1862.

[2]An Act to declare what shall be proof of the enfranchisement of ináms.

Preamble.

WHEREAS * * *[3] under the inám rules sanctioned by Government, under date the 9th August, 1859, the reversionary rights of Government are surrendered to the inámdars, in consideration of an equivalent annual quit-rent, and the inam lands are thus enfranchised, and placed in the same position as other descriptions of landed property, in regard to their future succession and transmission; It is hereby enacted as follows :—

[*Enactments not to apply to enfranchised inams.*]
Rep., Act XI of 1901.

Evidence of enfranchisement.

2. The title-deed issued by the Inám Commissioner, or an authenticated extract from the register of the Commissioner or Collector, shall be deemed sufficient proof of the enfranchisement of land previously held on inám tenure.

---

[1] Short title, "The Madras Enfranchised Ináms Act, 1862" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Nothing in this Act is to be deemed to confer on any inámholder any right to land which he would not otherwise possess. *See* s. 1 Mad. Act VIII of 1869.

This Act has been declared in force in the Scheduled Districts in Ganjam —*see Fort St. George Gazette*, 1899, Pt. I, p. 888, and *Gazette of India*, 1899, Pt. I, p. 720.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3 (*a*) of the Scheduled Districts Act, 1874, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3 (*b*) of the Scheduled Districts Act, 1874, not to be in force in the Vizagapatam Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] This title was substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—Second Schedule, Part III.

[3] The intervening portion of the Preamble was repealed by the Repealing and Amending Act, 1901 (XI of 1901).

THE MADRAS REVENUE RECOVERY ACT, 1864.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
   "Landholder."
   "Public revenue."
2. "Security for revenue."
3. Landholder when and to whom to pay kist.
   Board of Revenue may alter amounts and dates of payment.
4. Arrear of revenue.
5. Arrear of revenue how recovered.
6. Terms of sanad-i-milkiyat-i-istimrar to be observed.
7. Interst on arrears.
8. Rules for seizure and sale of movable property.
   Demand in writing.
   Defaulter to be served with copy.
   Writing to state that distrained property will be sold.
   Service when defaulter is absent.
9. Procedure when defaulter neglects to pay after notice.
10. On tender of arrear and expenses prior to sale, distress withdrawn.
11. Distrained crops how dealt with.
    Tenant may pay arrears and terminate attachment.
12. Distrained cattle or goods not to be used.
13. Recovery of loss from neglect in respect of distrained property.
14. Distress to be proportionate to arrear.
15. Time of distress.
16. Penalty for fraudulent conveyance of property to prevent distress.
17. Claims to property distrained and sold.
    Revenue to be first charge.
18. Penalty for forcibly or clandestinely taking away distrained property.

SECTIONS.

19. What places distrainer may force open.
20. Powers of distrainer to force open doors in presence of Police Officer.
21. Punishment for unlawful entry.
22. Proclamation of time of sale, and of property to be sold.
23. Sale how conducted.
24. Payment on purchase of distrained property.
Re-sale in case of default.
25. Demand to be served prior to attachment of land.
Mode of service.
26. Procedure when defaulter neglects to pay.
27. Mode of attachment.
28. Management of attached property.
When Revenue-officer to take charge.
29. Notice of assumption of management.
30. Duties of agent.
31. Liability of agent to suit or prosecution.
32. Effect of existing agreements between landholder and tenants.
33. Payments by tenants.
34. Settlement on withdrawal of attachment.
35. Persons interested in land may release it from attachment.
36. Procedure in sale of immovable property.
Public auction.
Notification one month before sale.
Deposit by purchaser.
Re-sale in default of payment.
Agents to name principals.
37. Tender of arrears up to sunset on day before sale.
37-A. Application to set aside sale of immovable property on deposit.
38. (1) & (2) Application to set aside sale.
(3) Order confirming or setting aside sale.
(4) Refund of deposit or purchase-money when sale set aside.
(5) On confirmation of sale, purchaser's name to be registered.
Certificate of sale.
39. Proclamation of sale.
40. Delivery of possession.

SECTIONS.

41. Contracts and payments binding on purchaser.
42. Sale to be free of all incumbrances.
Disposal of surplus.
43. Recovery of arrears due to defaulter on day of sale.
44. Sale of land for arrears.
45. Apportionment of assessment on subdivision.
Production of accounts.
Effect of non-production.
46. [*Repealed.*]
47. Sale may be postponed on tender of security.
48. Powers of arrest in case of wilful or fraudulent non-payment of arrears.
Period of imprisonment.
Debt not extinguished.
49. Procedure in case of arrest.
50. Mode of enforcing payment by sureties.
51. Removal of crops may be prevented where revenue is payable in kind.
52. Similar process in case of other species of revenue advances fees and cesses.
53. Process-servers to be paid batta.
54. Interest and charges recoverable as arrears.
55. Who to bear expense of countermanded sale.
Recovery thereof.
56. Receipts for payment of revenue.
57. Procedure where defaulter or surety resides out of district.
Effect of Collector's application.
Saving of right to sue applicant.
58. Cognizance of questions relating to rate of revenue.
59. Suits by persons aggrieved by proceedings.
Limitation.
60. Survival of suits against Collector.
Liability for predecessor's acts.
61. Regulation V of 1822 not to apply to sales.
62. Regulations XXVIII of 1802 and I and II of 1803 not to apply to arrears.
63. Saving of Regulations V of 1804 and X of 1831
64. Scope of Act.
65 & 66 [*Repealed.*]

MADRAS ACT No. II OF 1864.[1]

[THE MADRAS REVENUE RECOVERY ACT, 1864.][2]

[*20th June*, 1864.]

An Act to consolidate the Laws for the Recovery of Arrears of Revenue in the Madras Presidency.

Preamble.

WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified; It is hereby enacted as follows:—

Interpretation clause. Landholder.

1. The term "landholder" as used in this Act, shall be taken to comprise the following persons:—

All persons holding under a Sanad-i-Milkiyat-i-istimrar, all other Zamindars, Shrotriyamdars, Jagirdars, Inamdars, and all persons farming the Land Revenue under Government. All holders of land under Ryotwar settlements, or in any way subject to the payment of revenue direct to Government.

Public revenue.

Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to Government on account of water supplied for irrigation.

Security for revenue.

2. The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue.

Landholder when and to whom to pay kist.

3. Every landholder shall pay to the Collector, or other officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the kistbandi or other engagement, and where no particular day is fixed, then within the time when the payment falls due according to local usage: Provided that, except where property is held under a Sanad-i-Milkiyat-i-istimrar or other similar

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[1] Short title, "The Madras Revenue Recovery Act, 1864" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa country in the Godavari District—*see Fort St. George Gazette*, 1879, p. 723, and *Gazette of India*, 1879, Pt. I, p. 630.

It has been declared, by notification under section s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 666, and *Gazette of India*, 1898, Pt. I, p. 869. It has also been declared by a notification under the same section to be in force in the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadrachalam and Rakapilli in the Godavari District—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India*, *ibid.*, p. 630.

This Act is not in force in the taluqs of Nugur, Albaka and Cherla, *vide* s. 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (I of 1909).

[2] The Act was temporarily amended by the Madras Revenue Recovery (Temporary Amendment) Act, 1922 (Madras Act IV of 1922).

Board of Revenue may alter amounts and dates of payment.

instrument, it shall be lawful for the Board of Revenue, by notification published in the District Gazette, to alter and fix, from time to time, the amount of the several kists or instalments, and the dates at which they shall respectively become payable.

Arrear of revenue.

4. When the whole or portion of a kist shall not be so paid, the amount of the kist or of its unpaid portion shall be deemed to be an arrear of revenue.

Arrear of revenue how recovered.

5. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's movable and immovable property, or by execution against the person of the defaulter in manner hereinafter provided.

Terms of Sanad-i-Milkiyat-i-istimrar to be observed.

6. If the defaulter hold under a Sanad-i-Milkyat-i-istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sanad. In the case of other defaulters, the Collector, or other officer empowered by the Collector in that behalf, may, at his discretion, proceed to realize the arrear by the sale of either the movable or immovable property of the defaulter, or of both.

Interest on arrears.

7. Arrears of revenue shall bear interest at the rate of 6 per cent per annum.

Rules for seizure and sale of movable property.

8. In the seizure and sale of movable property for arrears of revenue, the following rules shall be observed :—

Demand in writing.

First.—The Collector, or other officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the name of the defaulter, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under section 53, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where it may be lodged or kept.

D faulter to be served with a copy.

Writing to state that the distrained property will be sold.

Second.—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, be previously discharged.

Service when defaulter is absent.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his

usual place of residence, or on the premises where the property may have been distrained, before the expiration of the third day, calculating from the day of the distress.

Procedure when defaulter neglects to pay after notice.

9. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector or other officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property distrained to the nearest Public officer empowered to sell distrained property, under Act VII of 1839, in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

On tender of arrear and expenses prior to sale, distress withdrawn.

10. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

Distrained crops how dealt with.

11. The distrainer attaching the crops of ungathered products of the land belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

Tenant may pay arrears and terminate attachment.

Distrained cattle or goods not to be used.

12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained; he shall provide the necessary food for the cattle or livestock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Recovery of loss from neglect in respect of distrained property.

13. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by

the Collector from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified.

Distress to be proportionate to the arrear.

14. The distress levied shall not be excessive that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time of distress.

15. Distress shall be made after sunrise and before sunset, and not otherwise.

Penalty for fraudulent conveyance of property to prevent distress.

16. Where a defaulter may make a fraudulent conveyance of property to prevent the distress for 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. XLV of 1860.

Claims to property distrained and sold.

17. Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, costs, and damages, according to the circumstances of the case. But claims to crops upon the ground or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crop or product may have been grown.

Revenue to be the first charge.

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. XLV of 1860.

What places distrainer may force open.

19. 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.

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.

Proclamation of time of sale, and of property to be sold.

22. The public officer, empowered under Act VII of 1839 to sell distrained property, shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector, or other officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Sale how conducted.

23. At the appointed time, the property shall be put up in one or more lots, as the said officer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Payment on purchase of distrained property.

24. The property shall be paid for in ready money at the time of the sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to

carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Re-sale in case of default.

Demand to be served prior to attachment of land.

25. Before a Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of the defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

Mode of service.

Proceduro when defaulter neglects to pay.

26. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Mode of attachment.

27. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette.

Management of attached property.

28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment to assume the management of the property attached. In such case he shall appoint an agent with a proper establishment of officers to manage the property, and shall give the agent certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property: provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an

agent, it shall be committed to the care of such Revenue-officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to agents. When Revenue-officer to take charge.

29. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in section 25, and shall be notified by public proclamation on the land, and by publication in the District Gazette. Notice of assumption of management.

30. It shall be the duty of the agent, during the continuance of management under section 28, to collect the rents and profits due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist. The agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance, to the Collector, or other officer empowered by the Collector in that behalf, monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expense without fee. Duties of agent.

31. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him as they would have had against the defaulter if the act were done by the defaulter. Liability of agent to suit or prosecution.

32. All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bona fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, shall be null and void against the Collector, if he shall so declare ; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same ; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue. Effect of existing agreements between landholder and tenants.

33. All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law. Payments by tenants.

Settlement on withdrawal of attachment.

34. All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of 6 per cent per annum, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

Persons interested in land may release it from attachment.

35. It shall be lawful for any person claiming an interest in land which has been, or is about to be, attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, [1][or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter], shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made. [Such sums when paid by a *bona fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter.][2]

Procedure in sale of immovable property. Public auction.

36. In the sale of immovable property under this Act the following rules shall be observed :—

First.—The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the district in which the property is situated, or other officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the fasli year.

Notification one month before sale.

Second.—Previous to the sale the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the district, specifying the name of the defaulter; the position and extent of land and of his buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's office and in the Taluk cutcherry, in the nearest police station-house, and on some conspicuous part of the land.

Deposit by purchaser.

Third.—A sum of money equal to 15 per cent of the price of the land shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the Collector

[1] The words in square brackets were substituted for the words "shall constitute a debt from the defaulter to him and" by s. 1 of Mad. Act I of 1897.

[2] The words in square brackets were added to the section by *ibid.*

in that behalf, at the time of the purchase, and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Fourth.—Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be resold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made. Re-sale in default of payment.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and, in the latter case, to deposit a written authority signed by their principals. If such requisition be not complied with, their bids may be rejected. Agents to name principals.

37. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed : Tendor of arrears up to sunset on day before sale.

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums [1][paid under this or the next succeeding section] by any tenant, or *bona fide* mortgagee, or other incumbrancer [2][or any person *bona fide* claiming an interest in the estate adverse to the defaulter] may be recovered in the manner provided in section 35.

[3]**37 A.** (1) Any person owning or claiming an interest in immovable property sold under this Act may, at any time within thirty days from the date of sale, deposit in the treasury of the taluk in which the immovable property is situated— Application to set aside sale of immovable property on deposit.

(*a*) a sum equal to 5 *per centum* of the purchase money,

(*b*) a sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears, and may apply to the Collector to set aside the sale.

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[1] The words in square brackets were substituted for the words "so paid" by s. 2 of Mad. Act I of 1909.

[2] The words in square brackets were added by s. 2 of Mad. Act I of 1897.

[3] This section was inserted by s. 3 of Mad. Act I of 1909.

(2) If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited, together with the 5 *per centum* deposited by the applicant :

Provided that if more persons than one have made deposit and application under this section, the application of the first depositor to the officer authorized to set aside the sale shall be accepted.

(3) If a person applies under section 38 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application under this section.

Application to set aside sale.

[1] **38.** (1) At any time within thirty days from the date of the sale of immovable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it ; but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularity or mistake unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

(2) If the application be allowed, the Collector shall set aside the sale and may direct a fresh one.

Order confirming or setting aside sale.

(3) On the expiration of thirty days from the date of the sale, [2] [if no application to have the sale set aside is made under section 37-A or under clause (1) of this section] or if such application has been made and rejected, the Collector shall make an order confirming the sale : provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

(4) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase-money, as the case may be, shall be returned to the purchaser.

On confirmation of sale purchaser's name to be registered.

(5) After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

Certificate of sale.

Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals, where it may be necessary to prove the same ; and no proof of the Collector's

[1] This section was substituted by s. 1. Mad. Act III of 1884,

[2] The words in square brackets were substituted for the words " if no such application is made " by s. 4 of Mad. Act I of 1909.

seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

Proclamation of sale.

39. When lands may be purchased at public sale the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages, in which the land sold may be situated, in the cutcherry of the taluk, in the head cutcherry of the district, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession.

40. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 38, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by and a decision of the Court.

Contracts and payments binding on purchaser.

41. All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in sections 32 and 33 of this Act.

Sale to be free of all incumbrances.

Disposal of surplus.

42. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale and other costs due in respect to such arrears, it shall be paid over to the defaulter unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Recovery of arrears due to defaulter on day of sale.

43. Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Sale of land for arrears.

44. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue : provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management, and sale.

Apportionment of assessment on subdivision.

45. Where only a part of a landed estate held under a Sanad-i-Milkiyat-i-istimrar, or otherwise subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following :—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such

division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

Production of accounts.

To this end the Collector shall have power to demand from landholders and from the karnams of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and karnams shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand so as to prevent the assessment being fixed on such divided portions of land, the Collector shall proceed to sell the entire estate.

Effect of non-production.

46. [*Confirmation of apportionment by Board. Rep. by the Madras Decentralization Act,* 1914 (*Mad. Act VIII of* 1914].

Sale may be postponed on tender of security.

47. When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter or against his security, or both.

Powers of arrest in case of wilful or fraudulent non-payment of arrears.

48. When arrears of revenue, with interest and other charges as aforesaid cannot be liquidated by the sale of the property of the defaulter, or of his surety, and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter, or his surety, not being a female, as hereinafter mentioned; but no person shall be imprisoned on account of an arrear of revenue for a longer period than two years, or for a longer period than six months, if the arrear does not exceed Rs. 500, or for a longer period than three months, if the arrear does not exceed Rupees 50 : provided that such imprisonment shall not extinguish the debt due to Government by the defaulter, or his surety.

Period of imprisonment.

Debt not extinguished.

Procedure in case of arrest.

49. The Collector shall issue his warrant for the arrest of the defaulter, or his surety, or both, not being females, which shall specify his or their name, the amount of revenue due and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The officer charged with the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both, and convey him or them to the district gaol, and deliver the warrant to the gaoler, which shall be a sufficient authority to him to receive the prisoner or prisoners. A copy of such

warrant shall be retained by the gaoler, who shall forthwith despatch the original to the officer in charge of the goal.

Modo of enforcing payment by sureties.

50. All the remedies prescribed by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principal; so, nevertheless, that no more than the total sum in arrears, and interest with costs and charges, shall be realized from both.

Removal of crops may be prevented where revenue is payable in kind.

51. When land-revenue is payable in kind, it shall be lawful for the Collector or other officer empowered by the Collector in that behalf, to prevent the removal of the crop from the land until a division has been made, and the portion which belongs to Government has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

Similar process in case of other species of revenue, advances, fees and cesses.

52. All arrears of revenue other than land-revenue due to Government, all advances made by Government for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties, and all cesses lawfully imposed upon land, may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

Process-servers to be paid batta.

53. Persons employed in serving notices, or in other process under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Board of Revenue with the sanction of Government, and published in the District Gazette.

Interest and charges recoverable as arrears.

54. The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Who to bear expense of countermanded. sale.

55. Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Recovery thereof.

Receipts for payment of revenue.

56. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector or other officer empowered by the Collector in that behalf; such receipt shall state the name of the person making the payment and the subject-matter in respect of which it is paid, and, in case of land revenue, shall describe the land on which the assessment is due and the names of the persons entered in respect thereof in the settlement account.

Procedure where defaulter or surety resides out of district.

57. Where a defaulter or his surety may reside or hold property out of the district wherein default shall have been made, the Collector of the district in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose district such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own district. Every such application shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application, or any person acting under his authority ; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt its genuineness : provided always, that nothing herein contained shall affect the right of any party to sue in his own district the Collector who made the application.

Effect of Collector's application.

Saving of right to sue applicant.

[1][A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of Deputy Tahsildar.]

Cognizance of questions relating to rate of revenue.

58. No Court of Civil Judicature shall have authority to take into consideration or decide any question as to rate of land-revenue payable to Government, or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

Suits by persons aggrieved by proceedings.

59. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress : provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Limitation.

Survival of suits against Collector.

60. No suit brought against any Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act, shall abate by reason of the departure from his district of the Collector against whom such suit shall have been brought ; but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section : provided that no Collector shall be personally liable for any official act of his predecessor.

Liability for predecessor's acts.

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[1] This paragraph in square brackets was added to section 57 by the Madras Decentralization Act 1914 (Mad. Act VIII of 1914).

61. Regulation V of 1822 [1] shall not be applicable to sales of property under this Act. Regulation V of 1822 not to apply to sales.

62. Regulation XXVIII of 1802[1] and Regulations I and II of 1803 shall be inoperative as respects arrears of revenue recoverable under this Act. Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears.

63. Nothing in this Act shall be held to bar the operation of the provisions of Regulation V of 1804 [2] and of Regulation X of 1831, in respect to the sale of lands of minors and other disqualified landholders. Saving of Regulations V of 1804 and X of 1831.

64. Nothing in this Act shall apply to the collection of land-revenue within the limits of the Town of Madras, as defined by section 12, Regulation II[3] of 1802 of the Madras Code. Scope of Act.

65. [*Repeal of certain enactments.*] *Repealed by Act XII of* 1873.

66. [*Commencement of Act.*] *Repealed by Act XII of 1873.*

MADRAS ACT No. I OF 1865.[4]

[THE MADRAS DISTRICT LIMITS ACT, 1865.]

[12*th December*, 1864 ; 5*th January*, 1865.]

An Act to provide for the alteration of the * * * [5] limits of Districts or Zilas in the Madras Presidency.

1. It shall be lawful for the Governor in Council of Fort St. George, from time to time, to alter the limits of existing districts or zilas in any part of the Provinces subject to his control. Power to alter limits of districts or zilas.

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1 Repealed by Mad. Act VIII of 1865, which has itself been repealed by Mad. Act I of 1908.

2 Repealed except as regards the Scheduled Districts by Mad. Act I of 1902.

3 The whole Regulation has been repealed by the Madras Civil Courts Act, 1873 (III of 1873).

4 Short title, "The Madras District Limits Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The whole of the Act, except so much as empowers the Governor in Council to alter the limits of existing districts, was repealed by the Madras Civil Courts Act, 1873 (III of 1873). The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*See Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act is in force in the rest of the Agency also.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

5 The words "Stations of Zillah Courts and" were repealed by the Repealing and Amending Act, 1901 (XI of 1901)—Third Schedule, Part III.

MADRAS ACT No. V OF 1865. [1]

[THE MADRAS DISTRICT POLICE (AMENDMENT) ACT 1865.]

[*7th April*, 1865; *28th 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 :—

Levy of forfeitures or penalties in case of non-payment.

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 the 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 or compelled to give security, if fine, etc., 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.

When offender, if not a European British subject, may be imprisoned.

3. 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

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[1] Short title, "The Madras District Police (Amendment) Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid.* p. 630.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

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.

Procedure if offender be a European British subject.

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.

Construction.

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

MADRAS ACT No. VI OF 1865.[1]

[THE MADRAS OFFICIAL SEALS ACT, 1865.]

[29*th July*, 1865 ; 19*th August*, 1865.]

An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.

Preamble.

WHEREAS it is expedient that provision should be made for enabling the Governor in Council, from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers ; It is enacted as follows :—

Power to prescribe official seals.

1. * * *[2] It shall be lawful for the Governor in Council, from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers, any Regulation or Act to the contrary notwithstanding.

2. [*Repeal of Regulation II of* 1803, *section* 10.] *Rep. by the Repealing Act, 1873 (XII of 1873).*

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[1] Short title, "The Madras Official Seals Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Act was extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluk of Bhadrachalam and Rakapilli in the Godavari district—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid*, p. 630. It has been declared in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[2] Certain formal words have been repealed by Act XII of 1873.

MADRAS ACT No. VII OF 1865.[2]

[THE MADRAS IRRIGATION CESS ACT, 1865.]

[29*th July*, 1865; 7*th 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:—

Power to levy water-cess in addition to land-assessment.

[3]**1.** (*a*) Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work belonging to, or constructed by, Government, and also,—

(*b*) whenever water by direct or indirect flow or by percolation or drainage from any such river, stream, channel, tank or work from or through adjoining land irrigates any land under cultivation or flows into a reservoir and is thereafter used for irrigating any land under cultivation, and, [4][in the opinion of the revenue officer empowered to charge water-cess, subject to the control of the Collector, the Board of Revenue and the Government] such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land,—

it shall be lawful for the Government [5][before the end of the revenue year succeeding that in which the irrigation takes place] to levy at pleasure on the land so irrigated a separate

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[1] Short title, "The Madras Irrigation Cess Act, 1865"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

[2] The Act was extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 871, *Fort St. George Gazette*, 1898, Pt. I, p. 667. The Act is in force in the rest of the Godavari Agency.

The Act has been extended by a notification under s. 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Muttas of Dutcharti and Guditem of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

See the Bhavani Reservoir Irrigation Cess Act, 1933 (Madras Act XVI of 1933).

[3] This section was substituted for the original ss. 1 and 4 by Mad. Act V of 1900.

[4] The words in square brackets were substituted for the words "in the opinion of the Collector, subject to the control of the Board of Revenue and of the Government" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

[5] The words in square brackets were inserted by Mad. Act II of 1913, s. 3.

cess for such water, 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 :

Provided that where a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the Government entitled to irrigation free of separate charge, no cess under this Act shall be imposed for water supplied to the extent of this right and no more : Provisos.

Provided also that no cess shall be leviable under this Act in respect of land held under ryotwari settlement which is classified and assessed as wet, unless the same be irrigated by using without due authority water from any source hereinbefore mentioned and such source is different from or in addition to that which has been assigned by the Revenue-authorities or adjudged by a competent Civil Court as the source of irrigation of such land.

Rules for the recovery of water-cess from the landholder and the ryot.

[1] **1 A.** (1) In the case of land included in an estate the cess due under this Act shall, notwithstanding anything contained in the Madras Revenue Recovery Act, 1864, be leviable in accordance with such rules as the Government may, after previous publication, prescribe in that behalf— of 1864.

(*a*) from the landholder or

(*b*) from the ryot[2] or

(*c*) in shares from both.

(2) The amount payable by a landholder[2] or a ryot[2] under this Act shall be a first charge upon his interest in the land.

[3]* * * * * *

(4) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot *inter se* under any contract, express or implied, in regard to the payment of water-cess.

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[4] in the Madras Presidency.

Indemnification for acts done before passing of Act.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for anything 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.

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[1] Section 1-A, was inserted by s. 4 of Mad. Act II of 1913.

[2] As to meaning of these words, see s. 2 of Mad. Act II of 1913.

[3] Sub-section (3) was omitted by s. 3 of Mad. Act VI of 1920.

[4] *See* Mad. Act II of 1864.

[5] As to original section 4 *see* footnote to the first section *supra*.

MADRAS ACT No. II OF 1866.[1]

[THE MADRAS CATTLE-DISEASE ACT, 1866.]

[16*th March*, 1866 ; 17*th 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 period of time, as the Governor in Council thinks proper.

1. This Act shall be put in force in such districts, or parts of district and during such periods of time, as the Governor in Council [2][or subject to his control the Board of Revenue] may, from time to time, direct by notification in the Fort St. George Gazette.

Interpretation-clause.

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.

Establishment of hospital-pounds.

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

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[1] Short title, "The Madras Cattle-disease Act, 1866" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid*, p. 722.

Mad. Act I of 1879 is to be read with this Act.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[2] These words in square brackets were inserted by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

district, [1][or, in the City of Madras] [2][the Commissioner of the Corporation] 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.

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. Notice by owner of cattle attacked by disease.

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. Examination by pound-keeper.

[3][**6.** If the keeper of the hospital-pound should be of opinion that the animal has any contagious or infectious disease, he may thereupon require the owner of the animal or the person in charge thereof to place it in the hospital-pound.] Removal to the hospital-pound.

7. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, [1][or, in the City of Madras] [2][the Commissioner of the Corporation,] 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 labouring 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 labouring under such disease, and to require the removal of such animal or animals to the hospital-pound for the range. Inspection of places in which animals, suspected to be diseased, are found.

8. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, [1][or, in the City of Madras,] [2][the Commissioner of the Corporation,] shall have power, within his range, to cause to be cleansed and disinfected, in any manner which he may think proper, any premises in which any animal labouring 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. Cleansing of premises in which diseased animal has been or is. Disinfection of fodder, etc.

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1 These words were inserted by Mad. Act I of 1879, s. 1.

2 These words were substituted for the words "the President of the Municipal Commission by s. 3 of the Madras Cattle Disease (Amendment) Act, 1921 (Madras Act III of 1921).

3 Section 6 was substituted by section 2 *ibid.*

Expenses for food and treatment by whom to be borne.

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[1] 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.

Power to destroy diseased animals.

10. The keeper of the hospital-pound, or other person thereto authorized by the Magistrate of the district, [2][or in the City of Madras,] [3][the Commissioner of the Corporation,] 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.

Burial of carcass.

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 carcass 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.

Bar of claim to compensation.

No compensation shall be claimable in respect of any loss incurred by reason of any fact authorized by this section.

Owner to pay costs for animal cured.

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 credit of the cattle-pound fund, the actual cost of the feeding and treatment of such animal.

Recovery in case of default.

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:

Owner when not chargeable.

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.

Bar to removal, without licence, of animal in contact with diseased cattle.

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 contact, with any animal labouring under any contagious or infectious disease, shall remove such animal alive from his land or premises without the licence of the keeper of the hospital-pound for the range, or of some

1 The references to this Act should be read as if made to the Cattle-trespass Act, 1871 (I of 1871), *vide* s. 2 of the latter Act.

2 These words were inserted by s. 1 of Mad. Act I of 1879.

3 These words were substituted by section 3 of Madras Act III of 1921.

person authorized by the Magistrate of the district, [1][or, in the City of Madras,] [2][the Commissioner of the Corporation] to grant such licence.

Licences.

Every such licence 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, etc.

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, [1][or, in the City of Madras] [the Commissioner of the Corporation] in that behalf, 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 licence, any animal which has been in the same shed or stable, or in the same herd or flock, or in contact with any animal labouring 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 seizure and impounding of diseased animals.

[3][**15.** In any district or part of a district in which this Act is in force, hospital pound-keepers, all police officers not below the rank of a sub-inspector and such other persons as the Magistrate of the district or, in the City of Madras, the Commissioner of the Corporation, may specially empower, may 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.]

XV of 1860.

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1 These words were inserted by Mad. Act I of 1879, s. 1.

2 These words were substituted by s. 3 of Madras Act III of 1921.

3 Section 15 was substituted for the original section by s. 2 *ibid.*

Complaint of seizure by owner.

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.

Form of complaint.

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.

Procedure thereon.

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 into 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,[1] which fund shall be available for payment of all expenses incurred under the provisions of this Act:

Reward to informer.

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.

Power to make by-laws.

18. It shall be lawful for the Governor in Council, by notice published in the Fort St. George Gazette, to make and prescribe such by-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 by-laws shall not be repugnant to the provisions of this or any other Act.

Penalty for breach.

A breach of any such by-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.

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1 The references to this Act should be read as if made to the Cattle-trespass Act, 1871 (I of 1871), *vide* s. 2 of the latter Act.

MADRAS ACT No. IV OF 1866.[1]

[THE MADRAS ENFRANCHISED INAMS ACT, 1866.]

[*30th August*, 1866 ; *24th September*, 1866.]

An Act to exempt enfranchised Village or other Service inams, whether Revenue or Police, from the operation of Regulation VI of 1831.[2]

Preamble.

WHEREAS in the Madras Presidency certain inams attached to hereditary village or other officers in the Revenue and Police Departments—the claims connected with which are, under the provisions of Regulation VI of 1831,[2] exclusively adjudicable by the officers of Government in the Revenue Department—have been, and may yet be, under sanction of Government, enfranchised from the condition of service and placed in the same position as other descriptions of landed property, in regard to their future succession and transmission ; It is hereby enacted as follows :—

Regulation VI of 1831 not to apply to enfranchised service inams.

1. All hereditary village or other service inams, falling hitherto exclusively under the cognizance of the officers of Government in the Revenue Department, under the provisions of Regulation VI of 1831,[2] which have been or shall be enfranchised from the condition of service by the Inam Commissioner, or other officer acting under the sanction of Government, shall be exempt from the operation of the aforesaid Regulation.

Evidence of enfranchisement.

2. The title-deed issued by the Inam Commissioner or other officer duly authorized or an authenticated extract from the register of the Commissioner or other officer, shall be deemed sufficient proof of the enfranchisement of the land previously held on service tenure.

Act not to have retrospective effect.

3. Provided that nothing in this Act shall be construed as authorizing any Court of Civil Judicature to call into question decisions affecting any service inams which may have been already passed by revenue officers acting under the provisions of Regulation VI of 1831[2] prior to the enfranchisement of such inams.

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1 Short title, "The Madras Enfranchised Inams Act, 1866" was given by the Repealing and Amending Act, 1901 (XI of 1901). As to the true intent and meaning of this Act, *see* Madras Act VIII of 1869.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Ganjam and Vizagapatam Agencies, the taluk of Bhadrachalam and the Muttas of Guditeru and Dutcharti in the East Godavari Agency. *See Fort St. George Gazette*, 1930, Pt. I, p. 553. It is also in force in the rest of the Godavari Agency except the Nugur taluk.

2 Regulation VI of 1831 has been repealed except in the Scheduled Districts by the Madras Hereditary Village Offices Act, 1895 (Mad. Act III of 1895).

MADRAS ACT No. I OF 1867.[1]

[THE MADRAS GENERAL CLAUSES ACT, 1867.]

[*15th February, 1867*; *21st March, 1867.*]

An Act to shorten the language used in Acts of the Governor of Fort St. 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 St. George in Council, and to make certain other provisions regarding such Acts; It is enacted as follows :—

Meaning of words defined in Penal and Criminal Procedure Codes.

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,[2] 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 Act not to revive laws repealed thereby.

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 prior to repeal 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.

Commencement of future Acts.

5. Where in any future Act of the Governor of Fort St. 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.

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1 This Act does not apply to any Act passed after 1st January 1892—*see* Madras General Clauses Act, 1891 (Mad. Act I of 1891), s 2.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

2 *See* Act V of 1898.

6 & 7. [*Judicial notice of Madras Acts: recital of public fact to be prima facie evidence of its truth.*] *Rep. by the Repealing and Amending Act*, 1874 (*XVI of* 1874).

8. This Act may be cited for all purposes as the Madras General Clauses Act, 1867. Short title.

MADRAS ACT No. VI OF 1867.[1]

[THE MADRAS CITY LAND-REVENUE (AMENDMENT) ACT, 1867.]

[28*th May*, 1867 ; 27*th June*, 1867.]

An Act to amend Act XII of 1851 (an Act for securing the Land-revenue of Madras).

WHEREAS, in the preamble to Act XII of 1851, it is declared to be expedient that the land-revenue accruing due to the Government of India within the town of Madras should be ascertained and collected in as summary a manner as in other parts of the territories under the said Government, and it is enacted in section 9 of the said Act that the claim of the Government for land-revenue has priority over all claims upon the land ; and whereas in other parts of the said territories the land itself is the security for the revenue assessed thereon and is liable to be sold for the discharge of arrears, and there is no sufficient reason for exempting land situated within the town of Madras from the same liability ; and whereas it is expedient to give additional powers to the distraining officer appointed by the Collector of Madras under section 7 of the said Act ; It is hereby enacted as follows :— Preamble.

1. The word "revenue," as used in this Act, shall mean assessment, quit-rent, ground-rent or other charge upon the land payable to the Government. "Revenue" defined.

2. [*Repeal of Act XII of* 1851, *s.* 7.] *Rep. by the Repealing Act*, 1873 (*XII of* 1873).

3. The land and the buildings thereon shall be regarded as the security of the public revenue. Security for revenue.

4. Whenever any owner, tenant or occupier of land subject to the payment of revenue to the Government, or whenever any person holding such land shall, upon the written demand of the Collector, or any officer duly empowered to act on the Collector's behalf, refuse or neglect to pay any sum with which the land is charged as revenue, the Collector shall proceed for In default of payment, Collector to recover revenue by distress and sale of movable property.

[1] Short title, "The Madras City Land Revenue (Amendment) Act, 1867" was given by the Repealing and Amending Act, 1901 (XI of 1901).

the recovery of such revenue by distress and sale of the movable property of the owner wherever found, or, in the case of the tenant or occupier or holder of the land, by distress and sale of any movable property found upon such land.

Collector may sell lands, if arrears not recoverable by distress.

If, however, the Collector shall not be able to recover the arrears due by distress and sale of the movable property as aforesaid, it shall be lawful for the Collector to cause the land and buildings thereon to be sold for the arrear which has accrued due thereon, in the manner hereinafter provided.

Interest on arrears.

5. Arrears of revenue accruing on land within the town of Madras shall bear interest at the rate of six per cent per annum.

Rules as to seizure and sale of movable property.

6. In the seizure and sale of movable property for arrears of revenue, the following rules shall be observed :—

Collector to furnish distrainer with demand in writing.

First.—The Collector shall employ a person, hereinaftr called the distraining officer, to distrain the property, and shall furnish to such officer a demand in writing, signed by the Collector, or by some officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

Copy to defaulter.

Second.—The distraining officer shall produce the writing as authority for making the distress, and on the day on which the property shall be distrained shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept.

Writing to state that property will be sold.

Third.—The writing shall further set forth that the distrained property will be brought to public sale within seven days, unless the amount of the arrear with interest and all expenses of the distress be previously discharged.

Service when defaulter absent.

Fourth.—When a defaulter shall be absent, a copy of the writing, with the endorsement, shall forthwith be fixed or left at his usual place of residence.

Procedure when defaulter neglects to pay after notice.

7. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the distraining officer shall transmit an inventory of the property distrained to the Collector.

Effect of tender of arrear and expenses prior to sale.

8. If a defaulter whose property has been distrained shall, before the day of sale, tender payment of the arrear demanded, together with interest and all expenses attending the distress, the distraining officer shall receive the amount of the arrear, interest and expenses, and shall forthwith release the property.

Distress proportionate to arrear.

9. The distress levied shall not be excessive, and the value of property distrained shall be, as nearly as possible, proportionate to the amount of the arrear.

Time for distress.

10. The distress shall be made after sunrise and before sunset, and not at any other time.

What places distrainer may force open.

11. The distraining officer shall have power to force open any stable, cow-house, granary, store-house, out-house or other building, as also to enter any dwelling-house the outer door of which may be open (excepting the apartments in such dwelling-house appropriated for the zanana or residence of women, which, by the usage of the country, are considered private), and to break open the door of any room in such dwelling-house for the purpose of attaching property liable to attachment under this Act.

Distrainer's power to force open doors in presence of Police-officer.

12. Where a distraining officer shall have reason to suppose that the property liable to attachment under this Act 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 officer shall represent the same to the officer in charge of the nearest police-station within the limits of the town of Madras; and, 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 distraining officer may force open the outer door of such dwelling-house.

Distraint within zananas.

13. The distraining officer may also, in the presence of the Police-officer, after due notice given for the removal of women within a zanana, and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom of the country, cannot appear in public, enter the zanana apartments for the purpose of distraining the defaulter's property therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Demand to be served prior to attachment of land.

14. Before the Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be seven days from the date of service upon him.

Mode of service.

Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last-known residence, or on some conspicuous part of the land about to be attached.

Procedure on non-payment.

15. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Mode of attachment.

16. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land.

The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law.

The attachment shall be notified by the public proclamation on the land, and by publication of the notice in the official Gazette of the Madras district.

Persons interested in land may release it from attachment.

17. It shall be lawful for any person claiming an interest in land which has been or is about to be attached to obtain its release by paying the arrears, interest and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and, if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall, in the absence of any valid engagement to the contrary, only take priority over other charges according to the date at which the payment was made.

Rules as to sale of immovable property.

18. In the sale of immovable property under this Act the following rules shall be observed :—

Public auction.

First.—The sale shall be by public auction to the highest bidder.

The time and place of sale shall be fixed by the Collector or other officer empowered by the Collector in that behalf.

Notification before sale.

Second.—Previous to the sale, the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in English and in Tamil or Hindustani, specifying the name of the defaulter; the position and extent of land and of the buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current revenue-year; and the time, place and conditions of sale.

This notice shall be fixed up one month at least before the sale in the Collector's office, in the nearest police-station-house, and on some conspicuous part of the land.

Deposit at time of purchase.

Third.—A sum of money equal to fifteen per cent of the price of the lands shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the

Collector in that behalf, at the time of the purchase; and, where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Re-sale in default of payment.

Fourth.—If the purchaser refuse or omit to deposit the said sum of money or to complete the payment of the remaining purchase-money the property shall be re-sold at the expense and hazard of such purchaser; and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue.

If the lands, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Agents to name principals.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and in the latter case to deposit a written authority signed by their principal.

If such requisition be not complied with, their bids may be rejected.

Tender of arrears up to sunset on day before sale.

19. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching the property, or in taking the steps necessary for sale, and thereupon the sale shall be stayed:

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale; and all sums so paid by any tenant or *boná fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in section 17.

Purchaser to be registered.

20. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals where it may be material to establish the same; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

Effect of certificate.

Proclamation of sale.

21. When lands may be purchased at public sale, the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the Collector's kachari, and in the official Gazette of the Madras district, the name of the purchaser

and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession.

22. If, notwithstanding such publication, any lawful purchaser of land be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 20, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Contracts and payments binding on purchaser.

23. All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser as they would have been binding upon the defaulter.

Sale free of incumbrances.

24. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, except such as were *boná fide* created before the coming into operation of this Act;

Disposal of surplus.

and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale, and other costs due in respect of such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Recovery of arrears due to defaulter on day of sale.

25. Arrears of rent which, on the day of sale, may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Sale of land.

26. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrears of revenue:

Provided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears, with interest, and expenses of attachment and sale.

Sale may be postponed on tender of security.

27. When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint.

In the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter, or against his security, or both.

Process-servers to be paid batta.

28. Persons employed in serving notices or in other process under this Act shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of Government and published in the official Gazette of the Madras district.

Interest and charges recoverable as arrears.

29. The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Expense of countermanded sales to be sustained by the defaulter,

30. If property having been attached or distrained be ordered to be put up for sale, and the sale be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place;

and recovered as an arrear.

and, in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Suits by persons aggrieved by proceedings.

31. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress :

Limitation of suits.

Provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Survival of suits against Collector.

32. No suit brought against the Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act shall abate by reason of the departure of the Collector from the district ; but the suit shall be continued against the successor of the Collector in all respects as though it had been instituted against himself.

Liability for predecessor's acts.

A suit may be brought against the Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section. Provided that the Collector shall not be personally liable for any official act of his predecessor.

Act read with Act XII of 1851.

33. This Act shall be read with, and taken as part of, Act XII of 1851.

MADRAS ACT No. III OF 1869.[1]

[THE MADRAS REVENUE SUMMONSES ACT, 1869.]

[*9th March*, 1869 ; *23rd April*, 1869.]

An Act to empower Revenue-officers, to summon persons to attend at their kacháhriś for the settlement of matters connected with Revenue-administration.

Preamble. WHEREAS it is found that the revenue-administration of the country is retarded, because Revenue-officers, namely, Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsíldárs and Deputy Tahsíldárs, are not made competent, by express provision of law, to issue summonses for the attendance of persons, or the production of documents, in certain cases in which it is their duty to hold investigations ; It is hereby enacted as follows :—

Revenue-officers empowered to summon persons to appear or to produce documents.

1. Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsíldárs and Deputy Tahsíldárs shall have power to summon all persons resident within the district, whose evidence may appear to them to be necessary for the investigation of any matter in which they are authorized to hold an inquiry, and also to require the production of any document relevant to the matter under inquiry, which may be in the possession or under the control of such person.

Terms of summons.

[2] **2.** Such summons shall be in writing, and authenticated by the signature and seal of the officer by whom it is issued.

It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes ; and any particular document, the production of which is required, shall be described in the summons with convenient certainty.

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[1] Short title, " The Madras Revenue Summonses Act, 1869," was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared in force in the Rampa Country under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874)—*see Gazette of India* 1879, Pt. I, p. 63 . It has also been declared by a notification under the same section to be in force in the muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act is in force in the other parts of the Godavari Agency also. The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

It has been extended, under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see* Gazette, *ibid* ; to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India* 1898, Pt. I, p. 872.

[2] Ss. 2 to 5 of this Act apply, *mutatis mutandis*. to summons under Mad. Act V of 1893—*see* s. 3 of that Act.

[1] **3.** The summons shall be served personally on the person summoned, or, if he cannot be found, it may be left for him with some adult member of his family residing with him, or with the head of the village in which he lives. Service of summons.

[1] **4.** Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same. Persons summoned to produce may send documents by third party.

[1] **5.** When the person whose evidence may be required is unable, from sickness or infirmity, to attend before the officer issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the officer issuing the summons may, of his own motion, or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order him to be examined by a subordinate deputed by such officer for the purpose. When personal attendance of witnesses dispensed with.

MADRAS ACT No. VII OF 1869.

[THE MOPLAH OUTRAGES ACT CONTINUANCE ACT, 1869.]

[12*th November*, 1869; 3*rd December*, 1869.]

An Act to continue Act No. XX of 1859 (*An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George*).

WHEREAS Act No. XX of 1859 will expire on the thirty-first day of December, 1869; and whereas it is expedient to continue the said Act beyond that period: It is enacted as follows:— Preambl

1. Act No. XX of 1859 (*An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George*) shall continue in force from the passing of this Act until the Governor of Fort St. George in Council shall, by an order published in the Fort St. George Gazette, declare otherwise. Act XX of 1859 continued.

2. Section 13 of the said Act is hereby repealed. Section 13 repealed.

3. This Act may be called the Moplah Outrages Act Continuance Act. Short title.

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[1] See footnote to s. 2.

MADRAS ACT No. VIII OF 1869.

[THE MADRAS INÁMS ACT, 1869.][1]

[27*th May*, 1868; 8*th December*, 1869.]

An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of ináms heretofore furnished to inám-holders by the Inám Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.

Preamble. WHEREAS, under the rules sanctioned by the Local Government in the year 1859, and published in the Fort St. George Gazette, dated the 4th October, 1859, for the adjudication and settlement of inám-lands in the Madras Presidency, the Inám Commissioner of the said Presidency is required to furnish inám-holders with title-deeds in respect of their ináms, prepared according to certain forms prescribed by the said Government; and whereas the terms of the title-deeds so prepared appear in many cases to convey a more extensive right than was intended to be given, or than could be legally given; and whereas it is apprehended that the terms of the title-deeds may be so construed as to affect the rights and interests which other persons may have in lands from which the ináms are derived or drawn, in cases where inám-holders do not possess the proprietary right in the soil, but only the right of receiving the rent or tax payable to Government in respect of the inám-lands as transferees of the Government, and it is therefore expedient to remove all doubts as to the true intent and meaning of the words used in the said title-deeds; and whereas the words "land" and "lands" are used in Madras Acts IV of 1862 and IV of 1866 in connection with ináms in a sense not applicable to ináms, and it is expedient to explain the true intent and meaning of such words in the said Acts; It is enacted as follows :—

Effect of wording of inam title-deeds and of wording of Madras Acts IV of 1862 and IV of 1866.

1. Nothing contained in any title-deed heretofore issued to any inám-holder shall be deemed to define, limit, infringe or destroy the rights of any description of holders or occupiers of the lands from which any inám is derived or drawn, or to

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1 Short title, "The Madras Inams Act, 1869," was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam—*see Fort St. George Gazette*, 1899, Pt. I, p. 888. It has also been declared by a notification under the same section to be in force in the muttas of Ducharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3 (*b*) of the Scheduled Districts Act, 1874, to be not in force in the Vizagapatam Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

affect the interests of any person other than the inám-holder named in the title-deed; and nothing contained in Madras Act IV of 1862, or in Madras Act IV of 1866, shall be deemed to confer on any inám-holder any right to land which he would not otherwise possess.

MADRAS ACT No. I OF 1873.[2]

[THE MADRAS WILD ELEPHANTS PRESERVATION ACT, 1873.][1]

[21*st April*, 1873; 15*th 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; Local extent.

and it shall come into force on the first day of October, 1873. Commencement.

2. From and after the said day the destruction of wild elephants is prohibited, except as hereinafter provided. Destruction of wild elephants prohibited.

3. [3][Whoever, not being authorized thereto by a licence granted under the provisions of section 3-A shoots at or intentionally destroys and whoever abets within the meaning of the Indian Penal Code, any person not authorized as aforesaid in shooting at, or destroying] 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.

XLV of 1860.

Any person convicted under this Act of an effence 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. Penalty on second conviction.

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[1] Short title, " The Madras Wild Elephants Preservation Act, 1873," was given by the Repealing and Amending Act, 1901 (XI of 1901).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 25th February, 1873, p. 4; for Proceedings in Council, *see ibid*, 25th February, 1873, p. 2, and *ibid*, dated 22nd April, 1873, p. 5.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act is in force in all the other Agency tracts also.

[2] Repealed as to Coorg by Regulation 1 of 1881.

[3] The words within square brackets were substituted by section 2 of the Madras Wild Elephants Preservation (Amendment) Act, 1933 (Madras Act XXIV of 1933).

Licence to shoot female elephants.

[1][**3-A**. The District Collector, if specially authorized by the Board of Revenue, may, subject to such rules as may from time to time be made by the Local Government, on the application of any person grant to such person by name a special licence to shoot or destroy wild female elephants upon waste or forest lands in a specified area situated within the district whether such lands be the property of Government or otherwise subject to such conditions and restrictions as the Board of Revenue may direct or as the District Collector may think fit, for a period not exceeding one year from the date of the grant of the licence.

Every such licence shall become void at the expiration of the said period, but may be renewed by such Collector for any period not exceeding one year :

Provided that every such licence shall become void upon the conviction under this Act of the person to whom such licence was granted.]

Penalty for destroying male elephant on Government land without licence.

4. Whoever, not being authorized thereto by a licence granted under the provisions of section 7, shoots at or intentionally destroys, [2][and whoever abets within the meaning of the Indian Penal Code, any person not authorized as aforesaid in shooting at or destroying] 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. XLV of 1860.

Saving clause as to destruction of male elephants on zamindari or private land.

5. Nothing in this Act shall be deemed to prevent any zamindar or other proprietor or occupier of land, or any person duly authorized in that behalf by any such zamindar, proprietor or occupier, from destroying wild male elephants upon the waste or forest-lands of such zamindar, proprietor or occupier.

Saving clause as to destruction of elephants on cultivated lands, etc.

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.

Licence to shoot male elephants.

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 licence 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.

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[1] Section 3-A was inserted by section 3 of the Madras Wild Elephants Preservation (Amendment) Act, 1933 (Madras Act XXIV of 1933).

[2] The words within square brackets were substituted by s. 4 *ibid.*

Every such licence shall become void at the expiration of the said period, but may be renewed by such Collector or other officer for a like period :

Provided that every such licence shall become void upon the conviction under this Act of the person to whom such licence 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 licences.

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.

MADRAS ACT No. I OF 1876.

[THE MADRAS LAND-REVENUE ASSESSMENT ACT, 1876.] [1]

[12*th February* 1876 ; 3*rd March* 1876.]

An Act to make better provision for the separate assessment of alienated portions of permanently-settled estates.

WHEREAS it is desirable to make better provision for the separate assessment to land-revenue of portions of permanently-settled estates alienated by sale or otherwise ; It is hereby enacted as follows :— Preamble.

1. The alienor or alienee of any portion of a permanently-settled estate, or the representative of any such alienor or alienee, may apply to the [2] [Collector] of the district in which such portion is situate for its registration in the name of the alienee and for its separate assessment in respect of land-revenue. Application for registry and separate assessment.

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[1] Short title, " The Madras Land Revenue Assessment Act, 1876 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 2nd March, 1875, p. 12 ; for Report of the Select Committee *see ibid*, Supplement, dated 16th November 1875, p. 1 ; for Proceedings in Council, *see ibid*, Supplement , dated 2nd March 1875, p. 4, *ibid*, Supplement, dated 22nd November 1875, p. 1, *ibid*, Supplement, dated 8th February 1876, p. 2.

This Act took effect from 1st September, 1876.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette*, 1898, Pt. I, p. 666. It has also been declared by a notification under the same section to be in force in the Muttas of Dutcharti and Guditeru of the Godavari Agency,—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act is in force in the rest of the Agency also. The Act is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

2 For definition of " Collector, " *see* s. 2 of Mad. Act II of 1914.

Inquiry by Collector.

2. The [1] [Collector] shall thereupon hold an inquiry as to who is the present owner of the property in respect of which the application is made.

Procedure as to inquiry.

For the purposes of such inquiry the [1] [Collector] shall publish a notice in the local Gazette, in three successive issues, that the application has been made, and that, unless cause is shown to the contrary within sixty days from the date of notice, such separate assessment will be made.

He shall also cause notice of the inquiry to be given to any alienor or alienee who has not joined in the application.

In what case registry and separate assessment should be made.

If on such inquiry it appears that the alienation has taken place and that all the parties to such alienation concur in applying for the separate assessment of the portion alienated, and if objection is not taken by any person interested in the estate, or being taken is disallowed by the [Collector,] the [1] [Collector] shall proceed to register the alienated portion in the name of the alienee, and to apportion the assessment of such alienated portion in the manner provided in section 45 of Madras Act II of 1864, [2][* * * * *.]

Proportion of land-revenue to be deducted.

3. Upon such assessment being declared there shall be deducted from the land-revenue payable in respect of such estate an amount equal to the sum assessed on the portion so separately assessed.

Assessed part not liable for arrears due by estate, nor estate for arrears due by part assessed.

4. Upon such assessment being made, the portion so assessed shall no longer be liable in respect of arrears of revenue due by the estate of which it formed a part; nor shall such estate be liable in respect of the portion so assessed.

Persons aggrieved by registration may sue in Civil Court.

5. Any person aggrieved by the fact of the separate registration of such portion may sue in a Civil Court for a decree declaring that such separate registration ought not to be made.

Persons aggrieved by refusal to register may sue in Civil Court.

6. Any person aggrieved by the Collector's refusal to register may sue in a Civil Court for a decree declaring that such separate registration ought to be made.

Persons aggrieved by assessment may appeal to Revenue Board.

7. Any person aggrieved by the apportionment of the assessment under section 2 of this Act may appeal to the Board of Revenue within ninety days from the date of the declaration of such assessment; and the order of the Board of Revenue shall be final.

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[1] For definition of "Collector," *see* s. 2 of Mad. Act II of 1914.

[2] The words and figures "subject to the sanction laid down in section 46 of that Act" were repealed by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

8. The Governor in Council may at any time, if it appears that there has been fraud or material error in the apportionment of such separate assessment, cause the same to be re-adjusted. Power to re-adjust assessment.

9. [*Regulation I of* 1819 *repealed.*] *Rep. by the Repealing and Amending Act,* 1901 (*XI of* 1901).

MADRAS ACT No. VII OF 1878.

[THE MADRAS MUNICIPAL POLICE ACT, 1878.][1]

[16*th April,* 1878 ; 7*th September* 1878.]

An Act to provide for the payment from municipal funds of a portion of the cost of the police force employed in the City of Madras and in all municipal towns within the Presidency of Fort St. George.

WHEREAS it is expedient that a portion of the cost of the Police employed in the City of Madras, and in every town brought under the operation of the Towns Improvement Act,[2] Mad. Act III 1871. 1871 (Madras), shall be defrayed from municipal funds ; It is hereby enacted as follows :— Preamble.

1. This Act shall come into force on the first day of April, 1879. Commencement of Act.

2. [*Repeal of section* 2 *of Act V of* 1871.] *Rep. by the Repealing and Amending Act,* 1901 (*XI of* 1901).

3. The Municipal Commissioners for the City of Madras shall annually set apart, and pay to the Government in equal monthly instalments, out of the funds raised under the Madras Municipal Act, 1867,[3] or any other corresponding law for the time being in force,[4] such sum not exceeding fifty per centum of the total cost of the Police-force, other than the Marine Police, employed by Government in the said City, as may be annually fixed by the Government. Municipal contribution towards maintenance of Police in City of Madras.

4. In every town in which the Towns Improvement Act 1871 (Madras), or any other corresponding law for the time being in force,[5] is in operation, the Municipal Commissioners for such town shall annually set apart, and pay to the Government in equal monthly instalments out of the funds raised [2] Municipal contribution towards maintenance of Police in Mufassal towns.

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[1] Short title, " The Madras Municipal Police Act, 1878 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette,* 1878, Supplement, 27th March, p. 1 ; for Report of the Select Committee, *see ibid,* Supplement, dated 9th April, 1878, p. 1 ; for Proceedings in Council, *see ibid,* Supplement, dated 9th April, 1878, p. 68, *ibid.* Supplement, dated 24th April 1878, p. 75.

[2] The Act was repealed by Madras Act IV of 1884—*see* now the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

[3] The Act was repealed by Madras Act V of 1878—*see* now the Madras City Municipal Act, 1919 (Madras Act IV of 1919).

[4] *See* Madras Act IV of 1919.

[5] *See* Madras Act V of 1920.

under the said Act or law, such sum not exceeding seventy-five per centum of the total cost of the Police-force employed in such town as may be annually fixed by the Government.

Sums payable under Act when and to whom to be paid.

5. All sums payable under this Act shall be paid by the Municipal Commissioners for such city or town as aforesaid at such times and to such persons as the Government may from time to time direct.

Commissioner of Police to furnish the Madras Municipality annually with statements of sums received and expended, and of estimated probable expenditure, on account of the City Police.

6. The Commissioner of Police for the City of Madras shall, on or before the first day of August in each year, furnish to the Municipal Commissioners for the City of Madras, a statement of all sums received and expended by him in the past official year in respect of the Police-force, other than the Marine Police, employed in the said City, and a statement or estimate showing the probable expenditure to be incurred in the ensuing official year in respect of the said Police-force.

District Superintendents of Police to furnish similar statements to mufassal municipalities in respect of Police in towns.

Every District Superintendent of Police shall, at such periods as the Governor in Council may from time to time direct, furnish to the Municipal Commissioners for every town in his district in which the Towns Improvement Act,[1] 1871 (Madras), or any other corresponding law for the time being in force, is in operation, statements containing similar information to that mentioned in the preceding paragraph, in respect of the Police-force employed in every such town.

MADRAS ACT No. VIII OF 1878.[2]

[THE MADRAS COFFEE-STEALING PREVENTION ACT, 1878.]

[*30th August* 1878 ; *28th September* 1878.]

An Act to prevent Thefts of Coffee.

Preamble.

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 :—

Short title.

1. This Act may be called the Madras Coffee-stealing Prevention Act, 1878.

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1 *See* now Mad. Act V of 1920.

2 For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 28th January 1878, p. 3 ; for Report of the Select Committee, *see ibid*, Supplement, dated 13th August 1878, p. 3 ; for Proceedings in Council, *see ibid*, Supplement, dated 12th February 1878, p. 27, *ibid*, Supplement, dated 13th August 1878, p. 100, *ibid*, Supplement, dated 20th August 1878, p. 101.

Commencement and local extent of Act.

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.[1]

Power to modify or annul notification.

The Governor in Council may from time to time modify or cancel such direction by notification similarly published.

Interpretation. "Labourer."

3. In this Act—

"labourer" 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 :

"Carrier."

"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 :

"Coffee-estate."

"coffee-estate" means and includes any land on which coffee is growing :

"Coffee."

"coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption.

Coffee not to be taken from labourer.

4. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any labourer employed on a coffee-estate.

Coffee not to be taken from other than labourer, unless particulars entered in book.

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 labourer employed on a coffee-estate, unless the persons 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—

(*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 :

Section not to apply to coffee taken for *bona fide* personal consumption.

Provided that this section shall not apply to coffee purchased, taken in barter or exchange or received from any person other than a labourer 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.

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[1] For places to which the Act has been extended from time to time under this section, *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II, and its supplements.

Person in charge of coffee-estate to maintain a book of his transactions.

[1] **5-A.** Every person in charge of a coffee-estate, whether he be owner thereof or not, who sells, gives in barter or exchange, or delivers any 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—

(*a*) the name, residence and occupation of the person to whom such coffee was so sold, given in barter or exchange, or delivered;

(*b*) the date of the transaction; and

(*c*) the quantity and description of the coffee so sold, given in barter or exchange, or delivered.

Books to be produced on police-officer's requisition.

6. All books required [2][to be kept] by [2][sections 5 and 5-A] [2] * * * * 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.

Conditions under which coffee may be taken from a carrier.

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 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 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 5 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.

Penalty for breach of section 4, 5A, 6 or 7.

8. Any person committing any breach of the provisions contained in section 4, 5 [5-A], [3] 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty in case of labourer being found in possession of green coffee for which he cannot account.

9. Any coolie, maistry or other labourer employed on a coffee-estate found with green gathered [4][parchment or cherry-dried] 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.

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[1] This section was inserted by s. 3 of the Madras Coffee-stealing Prevention Act Amendment Act, 1900 (Mad. Act. II of 1900).

[2] These words were inserted, the words "sections 5 and 5-A" were substituted for the words "section 5," and the words "to be kept by persons purchasing coffee" repealed by s. 4 of Mad. Act II of 1900.

[3] The letter and figure "5-A" were inserted by Mad. Act II of 1900, s. 5.

[4] These words were inserted by Mad. Act II of 1900, s. 6.

Coffee not to be carried without permission of owner or agent.

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.

Permission to be in writing, etc.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars :—

(*a*) the quantity of the coffee to be carried or removed ;

(*b*) the number, description and marks of the packages in which 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.

Penalty for breach of this section.

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.

Hours of gathering or removing coffee.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee-estate between sunset and sunrise.

Penalty for breach of above provision.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code)[1] such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees :

XLV of 1860.

Section 10 and this section not to apply to ordinary operations of curing.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate such as pulping or storing.

Procedure if gathering, etc., was done to commit theft.

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 378 and 379 or sections 107, 108 and 109 of the Indian Penal Code,[2] as the case may be.

XLV of 1860.

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 9 of this Act, to substitute * * * [3] corporal punishment under the provisions of Act No. VI of 1864 [4] (*an Act to authorise the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf for * * [5] the penalties provided by this Act :

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1 *See* ss. 107 and 108 of the Indian Penal Code.

2 General Acts.

3 The words " or add," were repealed by Mad. Act. II of 1900, s. 7.

4 *See* now Act IV of 1909.

5 The words " or to " were repealed by Madras Act II of 1900, s. 7.

Proviso.

Provided that such substituted * * *[1] 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 [2][for reasons to be recorded in writing] 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.

Duties of a person in charge of coffee-estate.

[3]**15.** It shall be the duty of every person in charge of a coffee-estate whether he be owner thereof or not, to keep such books and to furnish such returns in connection with the coffee-estate or the coffee grown thereon at such times and to such authorities as may be prescribed by the Governor of Fort St. George in Council, and to afford to such officers as may be generally or specially designated in that behalf by the Collector all reasonable facilities for verifying the correctness of such books and returns, and for obtaining such other information as may be required for the preparation in public offices of such statistics as the Governor of Fort St. George in Council may prescribe.

Power to make rules.

[3]**16.** The Governor of Fort St. George in Council may after previous publication make rules—

(*a*) prescribing forms for the books, returns and statistics referred to in section 15 ;

(*b*) regulating the time at which and the authority to whom such returns are to be furnished ;

(*c*) regulating the inspection and examination of such books, returns and statistics ; and

(*d*) generally for carrying out the purposes of this Act ;

and all such rules shall be published in the Fort St. George Gazette and shall thereupon have the force of law.

Penalty for failure to comply with the provisions of section 15.

[3]**17.** Any person failing without reasonable excuse to comply with the provisions of section 15 of this Act shall be liable on conviction by a Magistrate to pay a fine not exceeding one hundred rupees.

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1 The words "or additional" were repealed by Madras Act II of 1900, s. 7.

2 These words were inserted by Mad. Act II of 1900, s. 8.

3 Sections 15, 16 and 17 were added by Mad. Act II of 1900. s. 9.

MADRAS ACT No. 1 OF 1879.

[1] [THE MADRAS CATTLE-DISEASE (AMENDMENT) ACT, 1879.]

[*6th February* 1879 ; *22nd March* 1879.]

An Act to amend Madras Act II of 1886 (the Cattle-disease Prevention Act).

Preamble. WHEREAS it is expedient to amend Madras Act II of 1866 (*An Act for the prevention of the spread of disease among cattle in the Madras Presidency*), in order to give full effect to its provisions within the limits of the City of Madras as defined in Madras Act V of 1878,[2] by conferring upon the President of the Municipal Commission for the City of Madras the powers given by the said Act to the Magistrate of the district ; It is enacted as follows :—

"President, Municipal Commission, Madras," to be read after "the District Magistrate." 1. Sections 3, 7, 8, 10, 12, 14 and 15 of Madras Act II of 1866 shall be read as if they contained the following words after the words "the Magistrate of the district" : "or, in the City of Madras, the President of the Municipal Commission."

Act to be read as part of Act II of 1866. 2. This Act shall be read with, and taken as part of, Act II of 1866.

MADRAS ACT No. II OF 1879.[3]

[THE NILGIRIS GAME AND FISH PRESERVATION ACT, 1879.]

[12*th February*, 1879 : 24*th 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

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1 Short title, "The Madras Cattle Disease (Amendment) Act, 1879" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1879, Supplement, dated the 21st January, 1879, p. 1 ; for Proceedings in Council *see ibid*, Supplement, dated the 4th February, 1879, p. 4.

The Act came into force on the 25th April 1879, by Notification, dated 26th April 1879—*see Fort St. George Gazette* 1879, Pt. I, p. 325.

2 Rep. by Mad. Act I of 1884—*see* now Mad. Act IV of 1919.

3 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1878, Supplement, dated the 2nd April 1878, p. 2 ; for Report of the Select Committee, *see ibid*, Supplement, dated the 25th June 1878 ; and for Proceedings in Council, *see ibid*, Supplement, dated the 24th April 1878, p. 82, and *ibid*, dated the 25th June 1878, and *ibid*, dated the 4th February 1879, p. 3.

The Act has been supplemented by Act IV of 1897.

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-sheep, deer 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 regulate 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 section 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, etc., during close season and for breach of fishing rules.

7. Every person convicted before a Magistrate of any offence against section 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[1] 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, etc.

9. All fees, fines and forfeitures realized 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 authorized 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 Mayar River.

The west and south banks of the Mayar 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 (Ouchterlony Valley).

The east bank of the Pandy River to where it falls near the Karkur Pass into Malabar Payenghaut.

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[1] *See* now Act V of 1898.

A line along the south crest of the Ouchterlony Valley and across the western slopes of the Nilgiri and Mukurti Peaks and Sisapara 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 abovenamed range to the Bhavani River at Attipadi in the valley of the same name.

MADRAS ACT No. I OF 1881.[1]

[THE MADRAS PORTS POLICE ACT, 1881.]

[*29th January*, 1881 ; *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 [2] (*an Act to incorporate the Police of the Town of Madras with the General Police of the Madras Presidency, etc.*), 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

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 6th July, 1880, p. 3 ; for Report of the Select Committee, *see ibid*, 7th December 1880, p. 1 ; for Proceedings in Council, *see* Supplement dated 27th July 1880, p. 3 *ibid*, Supplement, dated 25th January 1881, p. 2.

2 *See* now the Madras City Police Act, 1888 (Mad. Act III of 1888).

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 [1] (*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 [1] (*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 boatman 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

[1] Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893), itself repealed by Act XI of 1901.

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 licenses which he may hold under the provisions of Act IV of 1842 [1] or IX of 1846. [1]

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 ;

Procedure on default.

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.

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.

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[1] Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893).

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.

IV of 1877.

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

12. The provisions of the Code of Criminal Procedure [2] and the Presidency Magistrates Act [3] 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 shall 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.

15. [*Repeal of enactment.*] *Rep. by the Repealing and Amending Act*, 1901 (*XI of* 1901).

THE MADRAS FOREST ACT, 1882.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1 Short title. Local extent. Commencement.
2 Interpretation-clause.

1 *See* now the Madras City Police Act, 1888 (Mad. Act III of 1888).
2 *See* now Act V of 1898.
3 Act IV of 1877, with the exception of s. 57, which relates to the fees payable for summons or warrants issued by Presidency Magistrates, was repealed by Act X of 1882.

CHAPTER II.

RESERVED FORESTS.

SECTIONS.

3 Power to reserve forests.
4 Notification by the Governor in Council.
5 Suits barred.
6 Proclamation by Forest-settlement-officer.
7 Bar of accrual of forest-rights.
Prohibition of clearings, etc.
8 Inquiry by Forest-settlement-officer.
9 Powers of Forest-settlement-officer.
10 Claims to rights of occupancy and ownership.
Admitted claims.
Rejected claims.
Appeals.
11 Claims to rights of way, water-course, pasture and to forest-produce.
12 Provision for rights of pasture or to forest-produce admitted.
13 Commutation of such rights.
14 Appeal from order passed under sections 11, 12 and 13.
15 Appeal under section 14.
16 Notification declaring forest reserved.
17 Extinction of rights not claimed.
18 No right acquired over reserved forest except as here provided.
19 Rights continued under section 12 not to be alienated without sanction.
20 Power to stop ways and water-courses in reserved forest.
21 Penalties for trespass or damage in reserved forests, and acts prohibited in such forests.
Acts exempted from prohibition contained in this section.
22 Suspension of rights in reserved forests.
23 Persons bound to assist Forest-officer and Police-officer.
24 Power to declare forest no longer reserved.
25 Forests reserved previous to the passing of this Act.

CHAPTER III.

PROTECTION OF LAND AT THE DISPOSAL OF GOVERNMENT NOT INCLUDED IN RESERVED FORESTS.

26 Power to make rules.
Penalties for Acts in contravention of rules.
27 Power to close land against pasture.
28 Penalties.

CHAPTER IV.

OF THE CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS A LIMITED INTEREST.

SECTIONS.

29 On certain land, the breaking up or clearing for cultivation, etc., may be regulated or prohibited.
30 In case of refusal by owner, Government may take such lands on lease, or acquire them.
31 Acquisition of forest or land under the Land Acquisition Act.
32 Protection of forests at request of owners.
33 Management of forests the joint property of Government and other persons.
34 Persons employed to carry out the Act to be deemed Forest-officers.

CHAPTER V.

CONTROL OF TIMBER IN TRANSIT.

35 Power to make rules to regulate transit of timber.
36 Penalties for breach of rules made under section 35.

CHAPTER VI.

THE FOREST COURT.

37 Appointment and constitution of the Forest Court.
38 The Judge appointed to be the president.
39 Hearing of appeals.
40 Court to pass order which shall be final.

CHAPTER VII.

PENALTIES AND PROCEDURE.

41 Seizure of property liable to confiscation.
Report to Magistrate.
42 Procedure thereupon.
43 Timber, forest-produce, tools, etc., when liable to confiscation.
44 Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.
45 Procedure when offender is not known or cannot be found.
46 Procedure as to perishable property seized under section 41.

SECTIONS.

47 Appeal from orders under section 43, 44 or 45.
48 Property when to vest in Government.
49 Saving of power to release property seized.
50 Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary-marks.
51 Power to arrest without warrant.
52 Punishment for wrongful seizure or arrest.
53 Power to prevent commission of offence.
54 Operation of other laws not barred.
55 Power to compound offences.
56 Presumption that timber or forest-produce belongs to Government.

CHAPTER VIII.

CATTLE-TRESPASS.

57 Cattle-trespass Act, 1871, to apply.
58 Power to alter fines fixed by that Act.

CHAPTER IX.

FOREST-OFFICERS.

59 Governor in Council may invest Forest-officers with certain powers.
60 Forest-officers deemed public servants.
61 Indemnity for acts done in good faith.
62 Forest-officers not to trade.

CHAPTER X.

MISCELLANEOUS.

63 Additional powers to make rules.
64 Rules when to have force of law.
Powers of Government exercisable from time to time.
65 Governor in Council may delegate powers.
66 Recovery of money due to Government.
67 Lien on forest-produce for such money.
Power to sell such produce.
68 Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

MADRAS ACT No. V OF 1882.[1]

[THE MADRAS FOREST ACT, 1882.][2]

[*17th September*, 1882 ; *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.

1. This Act may be called the Madras Forest Act, 1882. Short title.

It extends to all territories for the time being subject to the Government of Fort St. George, except the scheduled districts : Local extent.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Extraordinary, dated 6th July 1882, p. 17 ; for Report of the Select Committee, *see ibid*, dated 19th August 1882, p. 1 ; for Proceedings in Council, *see ibid*, Supplement, dated 11th July 1882, p. 6, *ibid*, dated 12th September 1882, p. 9.

This Act was extended in 1894 by the Governor-General in Council to the Rampa country and to the Dutcharti and Guditeru muttas in the Golgonda hills, Godavari district ; and by Madras Notification No. 287, published at p. 725 of the *Fort St. George Gazette*, dated 19th June 1894, the said country and muttas were exempted from the operation of the following portions of the Act, Chapters II, III except section 26, IV, VI and VIII.

Also extended with the previous sanction of the Governor-General in Council to—

(*a*) The Pondakhol and the Minnajodi muttas and the Adigudi mutta in the scheduled districts of Ganjam known as the Surada Maliahs and Chinnakimidi Maliahs respectively (G.Os. No. 1294, Judicial, dated 18th June 1885, and No. 932, Judicial, dated 25th June 1901). Also to other scheduled districts of Ganjam (G.O. No. 2005, Judicial, dated 3rd December 1906. Notification No. 544, p. 1206, Pt. I of the *Fort St. George Gazette*, dated 4th December 1906).

(*b*) Kottam, Ram and Konda muttas of the scheduled taluk of Palkonda in the Vizagapatam district (Revenue Notification No. 41, dated 14th January 1890, p. 78, Pt. I of the *Fort St. George Gazette*, dated 28th January 1890).

(*c*) The Agency tracts of the Vizagapatam district other than the muttas in the Palkonda taluk to which the Act was made applicable, referred to in (*b*) above (Revenue Notification No. 268, dated 17th June 1891).

(*d*) The scheduled taluks of Bhadrachalam and Rackapalle in the Godavari district, *Gazette of India*, 1885, Pt. I, p. 660.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1969.

[2] See also the Madras Forest (Amendment) Act, 1919 (Madras Act VII of 1919).

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 anything 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."

"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:

"Tree."

"tree" includes stumps, bamboos and brushwood:

"Timber."

"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."

"forest-produce" includes the following things when found in, or brought from, a forest (that is to say):—

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."

"forest-offence" means an offence punishable under this Act or any rule made hereunder.

"Cattle."

"cattle" includes elephants, camels, buffaloes, horses, mares, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"River."

"river" includes streams, canals, creeks and other channels, natural or artificial:

"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 1 of Act VIII of 1865[1], Madras (namely), all persons holding under a sanad-i-milkiyat-i-istimrár, all other zamindárs, shrotriyamdárs, jágirdárs, inámdárs and all persons farming lands from the above persons or farming the land-revenue under Government: also all holders of land under raiyatwár 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" means imprisonment of either description as defined in the Indian Penal Code. "Imprisonment." XLV of 1860.

CHAPTER II.

Reserved Forests.

3. The Governor in Council may constitute any land at the disposal of Government a reserved forest in the manner hereinafter provided. Power to reserve forest.

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— Notification by the Governor in Council.

(*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 inquire 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 inquiry prescribed by this Chapter.

[1] *See* now Madras Act I of 1908.

Suits barred.

5. Except as hereinafter provided, no Civil Court shall, between the dates of the publication of the notification under section 4 and of the notification to be issued under section 16, 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 4.

Proclamation by Forest-settlement-officer.

6. When a notification has been issued under section 4, the Forest-settlement-officer shall publish in the official Gazette of the district, and at the head-quarters of each taluq 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 7 ;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*d*) fixing a period 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 4 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 16,

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, etc.

and no fresh clearings for cultivation or for any other purpose shall be made on such land.

No pattá shall, without the previous sanction of the [1][Board of Revenue], be granted on behalf of Government in such land, and every pattá 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.

Inquiry by Forest-settlement-officer.

8. The Forest-settlement-officer shall take down in writing all statements made under section 6, and shall inquire into all claims made under that section, recording the evidence in the manner prescribed by the Code of Civil Procedure [2] 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 4 may make to any such claim.

Powers of Forest-settlement-officer.

9. For the purpose of such inquiry 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 [2] 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 forests ; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.[3]

[1] These words were substituted for the words "Governor in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

[2] *See* now Act V of 1908.

[3] *See* now the Land Acquisition Act, 1894 (I of 1894).

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[1]; X of 1870.

(ii) 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;

(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 4, or other person generally or specially empowered by the Government in this behalf.

Claims to rights of way, watercourse, 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 10, 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.

[1] *See* now the Land Acquisition Act, 1894 (I of 1894).

Provision for rights of pasture or to forest-produce admitted.

12. When the Forest-settlement-officer has admitted wholly or in part, and recorded under section 11, a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right—

(*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 seasons 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.

Commutation of such rights.

13. Whenever any right of pasture or to forest-produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, 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.

Appeal from order passed under sections 11, 12 and 13.

14. The claimant, or the Forest-officer appointed under section 4, 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 11, 12 and 13, present an appeal from such order—

to a Forest Court constituted as hereinafter provided, or,

where no such Court is constituted, to such officer of the Revenue Department of not less than twelve years' 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 39 and 40 of this Act.

Appeal under section 14.

15. Every appeal under section 14 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, 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, the period fixed by sections 10 and 14 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 10 have been taken, and 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, [1] have become vested in the Government under section 16 of that Act ; X of 1870.

the Governor in Council may publish a notification [2] 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 6.

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 6 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 6 ; in which case the Forest-settlement-officer shall proceed to dispose of the claim in the manner hereinbefore provided.

No right acquired over reserved forest except as here 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 16 was published or by succession from such person :

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[1] *See* now the Land Acquisition Act, 1894 (I of 1894).

[2] *See* Madras List of Local Rules and Orders. Ed. 1923, Vol. II and its supplements.

Provided that no pattá shall without the previous sanction of the [1][Board of Revenue] be granted on behalf of Government for any land included within a reserved forest, and every pattá granted without such sanction shall be null and void.

Rights continued under section 12 not to be alienated without sanction.

19. Notwithstanding anything herein contained, no right continued under section 12 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 such right in contravention of this section shall be null and void.

No forest-produce obtained in exercise of any right continued under section 12 shall be sold or bartered except to the extent defined by the order recorded under sections 11 and 12.

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.

Power to stop ways and water-courses in reserved forest.

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.

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 7; 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 season 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, subject to any manufacturing process, or removes any forest-produce;

(*g*) clears, cultivates or breaks up any land for cultivation or any other purpose; or,

[1] These words were substituted for the words "Governor in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

(*h*) in contravention of any rules made by the Governor in Council, 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 to 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.

Acts exempted from prohibition contained in this section.

Nothing in this section shall be deemed to prohibit—

(*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 12 or created by grant or contract in the manner described in section 18 :

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 21) 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 commision 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, [1] [subject to the control of the Governor General in Council], by notification [2] 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.

Forests reserved previous to the passing of this Act.

25. The Government may, by notification [3] 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 inquired into, settled and recorded in a manner which the Government thinks sufficient, the same shall be inquired 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 [4] to regulate the use of the

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1 These words were substituted for the words " with the previous sanction of the Governor General in Council " by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

2 Several notifications under this power have been issued, but they are so numerous and liable to such frequent change that it is unnecessary to note them here.

3 Notifications under this section are too numerous and subject to so much alteration as to make reference here to them unnecessary.

4 For rules, *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II and its Supplements.

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 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 ;

[1](*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.

Penalties for acts in contravention of rules.

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 :

Provided that the Governor in Council may exempt any person or class of persons from the operation of all or any of such rules.

Power to close land against pasture.

27. Whenever fire is caused wilfully or negligently in any land to which all or any of the rules made under section 26 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 :

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.

Penalties.

28. Whoever pastures cattle or permits cattle to trespass in land closed under section 27 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.

[1] For rules under clause (*f*) *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II and its Supplements.

CHAPTER IV.

OF THE CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS A LIMITED INTEREST.

On certain lands, the breaking up or clearing for cultivation, etc., may be regulated or prohibited.

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—

(*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, 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 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. [1] X of 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.[1] X of 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 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 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.

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[1] *See* now the Land Acquisition Act, 1894 (I of 1894).

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.

34. All persons employed under sections 30, 32 and 33 to carry out the provisions of this Act shall be deemed to be Forest-officers within the meaning of this Act.

Persons employed to carry out the Act to be deemed Forest-officers.

CHAPTER V.

Control of Timber in Transit.

35. The Governor in Council may make rules [1] to regulate the transit of all timber or of certain classes of timber within local limits as may appear to be necessary. Such rules may (among other matters)—

Power to make rules to regulate transit of timber.

(*a*) prescribe the routes 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 ;

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1 For rules under this section and s. 36, *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II, and its Supplements.

(*h*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber of 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 35.

36. The Government may, by such rules,[1] 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 14, the Governor in Council shall, from

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1 *See* footnote to s. 35.

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 Forest 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 [1] 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.

Court to pass order 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.

[1] *See* now Act V of 1908.

CHAPTER VII

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

41. When there is reason to believe that 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, etc., 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.

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 whom 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 perishable property seized under section 41.

46. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 41 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 43, 44 or 45.

47. Any person claiming to be interested in property seized under section 41 may, within one month from the date of any order passed under section 43, 44 or 45, present an appeal therefrom which may be disposed of in the manner provided by section 419, Code of Criminal Procedure.[1]

Property when to vest in Government.

48. When an order for the confiscation of any property has been passed under section 43 or 45, and the period limited by section 47 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when on such an appeal being presented the Appellate Court confirms such order in respect of the whole or a portion of 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 41 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— XLV of 1860.

(*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-officers ; 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.

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1 *See* now Act V of 1898, *s.* 520.

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.

Power to prevent commission of offence.

53. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Operation of other laws not barred.

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.

Power to compound offences.

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 50 or section 52 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.

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.

Presumption that timber or forest-produce belongs to Government.

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.

CHAPTER VIII.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

57. Cattle-trespassing in a reserved forest or on lands on which the grazing of cattle has been prohibited by rules made under section 26, or which has been closed under section 27, 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.

I of 1871.

Power to alter fines fixed by that Act.

58. The Governor in Council may, by notification [1] 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 57 of this Act, such fines as he thinks fit, but not exceeding the following (that is to say) :—

	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 ; [2]

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence, and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure ; [3]

(*d*) power to accept compensation for forest-offences under section 55 and may withdraw any powers so conferred.

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[1] For notifications under this section—*See* Madras List of Local Rules and Orders, Ed. 1923, Vol. II and its Supplements.

[2] The Act was repealed by Madras Act IV of 1897—*See* now the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

[3] *See* now Act V of 1898.

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.[1]

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. XLV of 180

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[2] 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

[1] *See* now Act V of 1898, ss. 355, 356 and 357.

[2] For rules under this section, *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II, and its Supplements.

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.

All powers conferred by this Act on the Government may be exercised from time to time as occasion requires. Powers of Government exercisable from time to time.

65. It shall be lawful for the Governor in Council to delegate any of the powers conferred by sections 19, 20, 22, 27, 58 and 62 to the Board of Revenue, or to such other controlling Revenue-authority as the Government may from time to time appoint. Governor in Council may delegate powers.

66. All money, other than fines, payable to the Government under this Act, or any rules 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 [1] [or under any contract relating to timber or forest produce, including any sum recoverable thereunder for the breach thereof or in consequence of its cancellation or under the terms of a notice relating to the sale of timber or forest produce by auction or by invitation of tenders, issued by or under the authority of a District Forest Officer] 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 it if were an arrear of land revenue. Recovery of money due to Government.

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. Lien on forest-produce for such money. Power 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.

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 4.[2] X of 1870. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

[1] The words in square brackets were inserted by section 2 of the Madras Forest (Amendment) Act, 1933 (Madras Act I of 1934).

[2] *See* now the Land Acquisition Act, 1894 (I of 1894), s. 6.

MADRAS ACT No. III OF 1884.[1]

[THE MADRAS REVENUE RECOVERY (AMENDMENT) ACT, 1884.]

[21*st April*, 1884 ; 27*th June*, 1884]

WHEREAS it is expedient to amend Act II of 1864 of the Madras Code (*an Act to consolidate the Laws for the recovery of arrears of revenue in the Madras Presidency*) ; It is hereby enacted as follows :—

Amendment of section 38 of Act II of 1864.

1. For section 38 of Act II of 1864 of the Madras Code (An Act to consolidate the Laws for the recovery of arrears of revenue in the Madras Presidency), the following section shall be substituted :—

[*Vide pp.* 298–299 *supra.*]

Construction of Act.

2. This Act shall be read with, and taken as part of, Act II of 1864 of the Madras Code.

MADRAS ACT No. VI OF 1884.[2]

[THE MADRAS RIVERS CONSERVANCY ACT, 1884.]

[31*st March*, 1884 ; 28*th August*, 1884.]

An Act to provide for the Conservancy of Rivers in the Madras Presidency.

Preamble.

WHEREAS it is expedient to make provision for the conservancy of rivers in the Presidency of Madras ; It is hereby enacted as follows :—

Short title.

1. This Act may be cited as the Madras Rivers Conservancy Act, 1884.

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[1] Short title, "The Madras Revenue Recovery (Amendment) Act, 1884"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 21st December 1883, p. 2 ; for Report of the Select Committee, *see ibid*, dated 19th February, 1884, p. 1 ; for Proceedigs in Council, *see ibid*, dated 12th February, 1884, p. 47, *ibid*, dated 25th March 1884, p. 8, and *ibid*, dated 29th April, 1884, p. 1.

The Act came into force on 23rd September, 1884—*see* notification No. 169, *Fort St. George Gazette*, 1884, Pt. I, p. 586.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 5th July 1881, p. 4 ; for Report of the Select Committee, *see ibid*, dated 4th December 1883, p. 1 : for Proceedings in Council, *see ibid*, Supplement, dated 13th September, 1881, p. 9 ; *ibid*, Supplement, dated 3rd July, 1883, p. 26 ; *ibid*, 25th March 1884, p. 1.

Notification as to the conservancy of rivers as provided by this Act.

2. The Governor in Council may from time to time declare, by notification in the Fort St. George Gazette and in the Gazette of every district in which any part of the river is situated, that the conservancy of any specified river requires to be provided for in manner prescribed by this Act.

Power to direct survey of rivers.

3. The Governor in Council may at the same time direct that a survey be made of such river for the purpose of determining the limits within which this Act is to be applied, and that proper charts and registers be prepared setting forth the channel and all boundaries and landmarks and all other matters necessary for the purpose of ascertaining such limits.

Powers of surveying officers to enter upon and survey lands.

4. All persons authorized to make a survey under section 3 shall have the like powers to enter upon land and to do all acts necessary for the survey as are given in sections 4 and 5 of the Land Acquisition Act, 1870,[1] and subject to the provisos therein contained.

X of 1870.

Duties of surveyor.

5. It shall be the duty of the surveyor appointed to make a survey of any river to note upon the charts thereof all cultivation existing or ordinarily carried on, and all groynes, buildings, plantations, constructions or obstructions within the surveyed limits of the said river and to prepare a register to be styled the survey-register, containing the above particulars. The surveyor shall also mark upon the charts the ordinary channel as it exists at the date of the survey so far as it can be ascertained.

Survey-register.

Power to appoint Conservators of Rivers, and indicate their jurisdictions.

6. For the purpose of carrying out this Act in respect of any river, the Governor in Council may appoint as many officers as may be deemed necessary, to be styled Conservators of Rivers, and may from time to time define, by order to be notified in the Gazettes of the districts in which any part of such river is situated, the limits of their several jurisdictions.

Such officers shall be liable to removal by order of the Governor in Council.

When notification declaring Act applicable to rivers may be published.

7. The charts prepared, as is provided in section 3, shall, when completed, be exhibited for public information at the kachahris of all districts in which any part of the river so surveyed is situated, for a period of not less than ninety days. Any person or persons who may desire to raise objections to the boundaries or landmarks set forth in such charts shall be at liberty, during such period, to forward a statement in writing setting forth his or their objections to the Collector of the district in which the boundaries objected to are situated. At the expiry of such period, the Collector shall forward the said charts, with such statement of objections (if any) and his remarks thereon, to the Governor in Council, who shall then take the same into consideration, and may order such alteration in the said charts, or pass such other

[1] *See now* the Land Acquisition Act, 1894 (I of 1894).

order thereon, as to him may seem fit, previous to final approval of the said charts. On such final approval, the Governor in Council may, by notification in the Fort St. George Gazette and in the Gazette of every district in which any part of the river is situated, declare that the provisions of this Act shall apply to the said river within the boundaries and limits prescribed in the said charts.

River-bed defined.

The land within the limits so defined and approved by the Governor in Council shall be deemed to be the river-bed, and the limits shall, when necessary, be defined by boundary-stones or other suitable marks to be set up.

Custody of survey-register.

8. When the survey-register affecting any portion of a river is completed, it shall be handed over with the charts to the Conservator of Rivers within whose jurisdiction the said portion is stiuated, and shall form part of the records of his office.

The Conservator shall thereupon furnish to the Collectors of the districts in which any part of such river is situated certified copies of the survey-register and charts.

Charts of rivers where to be deposited for public inspection.

9. Copies of all charts and registers prepared as provided in section 5, as finally approved, shall be deposited in the office of the Collector of the district in which any part of the river so defined is situated, and shall be open to the inspection of the public at all reasonable times.

Power to alter limits of rivers.

10. The Governor in Council may from time to time, by notification in the Fort St. George Gazette and in the Gazette of every district in which any part of the river is situated, alter, extend or restrict the limits of any such river-bed, and the altered limits shall be marked in the charts and defined in manner prescribed in section 7 :

Provided that no such alteration shall be made until full particulars thereof shall have been publicly exhibited and any objections made thereto disposed of by the Governor in Council as provided for in the said section.

New cultivation on land in bed of notified rivers prohibited.

[1]**11.** After such surveys shall have been completed and approved and the notification as provided by this Act made by the Governor in Council, land within the limits of a river-bed, as defined in section 7, which has not been cultivated for two years previous to the date on which this Act is applied to the river, shall not, without the previous permission of the Conservator of Rivers in writing, be planted, cultivated or built upon, and it shall not be lawful without such permission to plant, cultivate or build upon, within the limit of a river-bed, any new formation of land.

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[1] This section was substituted for the original s. 11 by Mad. Act II of 1885, s. 1.

Whoever commences or carries on, or attempts to carry on, any plantation, cultivation or construction in contravention of this section and of a notice from the Conservator to desist shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred, or, in default of payment, to simple imprisonment not exceeding three months for every such offence. Penalty.

12. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require any owner or occupier of land usually cultivated, or cultivated with permission under section 11, within such river-bed, to abstain from cultivating such land [1][should it appear that such cultivation will tend to obstruct or divert the course of the river]; and it shall be the duty of such owner or occupier to act in obedience to such order. Power to prohibit cultivation.

Whoever fails to comply with any order made by the Conservator of Rivers under this section shall, on conviction before a magistrate, be liable to a fine not exceeding rupees five hundred, or, in default of payment, to simple imprisonment not exceeding three months for every such offence. Penalty.

13. (1) Upon a survey being completed and the notification made as provided by this Act, any person intending to make or remove or extend any groyne, building or construction of any kind, or plantation, grasses or trees, within such river-bed shall, one month before beginning so to make, remove or extend, make an application in writing to the Conservator of Rivers for licence to make or remove or extend such groyne, building, construction, plantation, grasses or trees. Constructions, plantations, etc., within river-bed without permission prohibited.

(2) The Conservator of Rivers shall, within one month after receiving such application, pass such orders in writing thereon as he may deem fit.

(3) If the Conservator of Rivers does not pass orders in writing within one month after receiving such application, the applicant may proceed to make, remove or extend such groyne, building, construction, plantation, grasses or trees in compliance with the terms of such application.

(4) An appeal from any order passed by the Conservator of Rivers under clause (2) of this section shall lie to the Collector of the district if the same be preferred within sixty days from the date of the receipt of such order.

(5) The appeal shall be in writing and shall set forth concisely the grounds of objection to the decision of the Conservator of Rivers, and shall be heard and disposed of by the Collector of the district.

(6) Whoever does any act prohibited by this section shall be liable on conviction before a Magistrate to a fine not Penalty.

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1 Those words were inserted by Mad Act II of 1885, s .2.

exceeding rupees one thousand or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Power to direct removal of constructions, plantations, etc.

14. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require the owner or occupier of any land within any such river-bed to remove any groynes, buildings, constructions, plantations, grasses, trees or other thing upon such land which the said Conservator may deem to be an obstruction to the course of the stream of such river; and it shall be the duty of such owner or occupier to act in compliance with such order within a time to be mentioned in such order:

Provided that, in the case of the removal of any building being so ordered, it shall be open to the owner or other person in charge thereof to appeal, through the Collector of the district, against such order to the Governor in Council within sixty days from the date of the receipt of such order; and in such case the order shall remain in abeyance until such appeal shall have been decided by the Governor in Council.

Notice of every appeal under this section, together with a copy of the petition of appeal, shall be sent by the appellant to the Conservator of Rivers at the time the appeal is sent to the Collector.

Penalty.

Whoever fails to comply with any order issued by the Conservator of Rivers under this section shall be liable, on conviction before a magistrate, to a fine not exceeding rupees one thousand, or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Particulars to be set forth in permits, and copies to be furnished to Collector.

15. The writings prescribed in sections 11 and 13, clause (2), shall define and describe the kind and extent of the cultivation and the nature of the works or things authorized to be made or done, and it shall be the duty of the Conservator of Rivers from time to time to record or cause to be recorded the particulars contained in such writings in the survey-register, and in the certified copies thereof in the possession of the Collector.

The Conservator of Rivers shall also furnish the Collector of the district with copies of all orders made by him under sections 12 and 14.

Compensation to owner or occupier of land within river-bed for constructions removed.

[1]**16.** Whenever, under sections 11, 12, 13 or 14, the Conservator of Rivers refuses the owner or occupier of any land permission to plant, cultivate or build on any land, or requires him to remove any groynes, buildings, constructions, plantations, grasses, trees or other obstructions or works existing at the time of the survey, or subsequently authorized

[1] This section was substituted for the original s. 16 by Mad. Act II of 1885, s. 3.

by the Conservator of Rivers, such owner or occupier shall be entitled to compensation for any damages sustained by him by reason of such requirement or refusal of permission.

Power to Conservators to do acts necessary to prevent danger to life or property.

17. The Conservator of Rivers may do any acts in connection with any river to which this Act has been applied which may appear to him to be necessary to prevent erosion or breach of embankments, encroachments by the stream or danger to life or property, and for such purpose he may alter the course of any such stream:

Compensation for damage sustained by such acts.

Provided that compensation shall be made to any person who shall sustain any damage by reason of any act authorized by this section.

The Conservator shall furnish the Collector of the district with a report of every act done by him under this section.

Delegation of powers conferred on Conservator of Rivers to his subordinates.

18. All or any of the powers conferred upon the Conservator of Rivers by the preceding section may be exercised by such of his subordinates as may be nominated by him:

Provided such nomination be notified in the Gazettes of the district in which any part of the river is situated.

Penalty for obstructing Conservators.

19. Any person who obstructs the Conservator of Rivers in doing any act authorized by this Act shall be deemed to have committed the offence described in section 186 of the Indian Penal Code.

XLV of 1860.

Conservators to be deemed officers in charge of rivers under Act I of 1858.

20. Conservators of Rivers under this Act shall be deemed and taken to be officers in charge of rivers within the meaning of Act I of 1858 (*An Act to make lawful compulsory labour for the prevention of mischief by inundation, etc.*).

Power to Conservator to cause removal of obstruction, etc., in case of default.

21. Whenever the Conservator of Rivers, in accordance with the provisions of this Act, requires the owner or occupier of any land to do any act or to remove any obstruction, and such owner or occupier fails to do what he is required to do within a reasonable specified time, such Conservator may cause such act to be done or obstruction to be removed and charge the expense of such act or removal to such owner or occupier.

Recovery of expenses of such removal.

The expense so incurred by the Conservator of Rivers shall be certified by him to the Collector of the district, who shall recover the same from such owner or occupier in the manner provided by law for the recovery of arrears of land-revenue.

Power to make rules.

22. The Governor in Council may from time to time make, and when made, alter, add to and repeal, rules not inconsistent with this Act for the prevention of any injury to works constructed upon all rivers or upon any river to which this Act may be applied, and for the prevention of acts or omissions likely to affect injuriously the conservancy of such rivers or river:

Provided that no penalty for any one infringement of any such rules shall exceed rupees fifty.

All rules made under this section shall be published in three successive issues of the Fort St. George Gazette and of the Gazettes of every district in the Presidency in which any part of the river is situated to which such rules relate, and shall not come into operation until one month after such publication.

Conservators, etc., to be public servants.

23. All Conservators of Rivers, surveyors, and subordinates duly authorized under section 18 of this Act shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860

Fines to be recovered under the Code of Criminal Procedure.

24. All fines imposed by this Act may be recovered in the manner provided in the Code of Criminal Procedure.[1]

Period of limitation for suits against Conservators, etc.

25. No suit shall be brought against any Conservator, surveyor or subordinate, or any person acting under his direction, for anything done or intended to be done under this Act until after the expiration of three months next after notice in writing shall have been delivered or left at the office of such Conservator, surveyor, subordinate or person, or at his place of abode, explicitly stating the cause of action and the name and place of abode of the intended plaintiff and of his agent in the cause, if any, and upon the trial of such suit the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and, unless such notice be proved, the Court shall find for the defendant; and every such suit shall be commenced within six months next after the accrual of the cause of action.

No evidence of cause of action except of that stated in notice.

Tender of amends.

If any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Payment into Court.

It shall be lawful for the defendant, before issue joined, by leave of the Court in which any suit is pending, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Easements Act not affected.

26. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Easements Act (Act V of 1882).

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[1] *See now* Act V of 1898.

MADRAS ACT No. II OF 1885.[1]

[THE MADRAS RIVERS CONSERVANCY (AMENDMENT) ACT, 1885.]

[14*th February*, 1885 ; 13*th April*, 1885.]

An Act to amend the Madras Rivers Conservancy Act, 1884.

WHEREAS it is expedient to amend the Madras Rivers Conservancy Act, 1884 ; It is hereby enacted as follows :— Preamble.

1. For section 11 the following shall be substituted (namely) :— Amendment of section 11.

[*Vide pp.* 370–371 *supra.*]

2. In section 12, after the words "such land" the words "should it appear that such cultivation will tend to obstruct or divert the course of the river" shall be inserted. Amendment of section 12.

3. For section 16 the following shall be substituted (namely) :— Amendment of section 16.

[*Vide pp.* 372–373 *supra.*]

MADRAS ACT No. III OF 1885.[2]

[3][THE MADRAS OUTPORTS LANDING AND SHIPPING FEES ACT, 1885.]

[10*th April*, 1885 ; 15*th 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.

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 :— Preamble.

[* * * * *].[4]

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[1] Short title, "The Madras Rivers Conservancy (Amendment) Act, 1885" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Extraordinary, dated 4th October, 1884, p. 2 ; for Proceedings in Council, *see ibid*, Supplement, dated 4th November, 1884, p. 3 ; and *ibid*, Supplement, dated 10th February 1885. p. 4.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement dated 3rd February, 1885, p. 2 ; for Report of the Select Committee, *see ibid*, dated 24th March, 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 17th February, 1885, p. 5 ; and *ibid*, Supplement, dated 8th April, 1885, p. 8.

[3] *See* also the Vizagapatam Port Act, 1931 (Act X of 1931).

[4] The words and figure "Part I—Preliminary" were omitted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 ; (Madras Act V of 1919).

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.

[1] [**2.** The Madras Pier Act, 1863, and the Madras Pier Amendment Act, 1871, are repealed.]

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) [2] :

"Vessel"

(2) "vessel" denotes anything made for the conveyance by water of human beings or property :

[3] [(3) "Drift" includes timber or other floating matter whether the same is in the possession or under the control of any person or not.]

"Owner."

[4] [(4)] "owner," when used in relation to goods, [5] [or drift] includes any consigner, consignee, shipper or agent for the sale, custody, landing or shipping of such, goods [5] [or drift.]

"Goods."

[4] [(5)] the word "goods" includes wares and merchandise of every description [6] [and carts, carriages, animals, baggage and other articles.]

[7] [* * * * * * * * * *].

Levy of landing and shipping fees.

[7] **4** Landing and shipping fees, according to the rates which may be fixed [8] [by the Governor in Council] from time to time [9] [may be levied] upon all [10] [passengers and] goods [11] [* * * * *] landed from or shipped into any vessel lying or

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[1] Section 2 was substituted by section 4 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919, (Madras Act V of 1919).

[2] *See* now the Indian Ports Act, 1908 (XV of 1908).

[3] The original sub-sections (3) and (4) were renumbered (4) and (5) and this sub-section was inserted by section 5 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 ; (Madras Act V of 1919).

[4] The original sub-sections (3) and (4) were renumbered (4) and (5) by section 5 *ibid.*

[5] The words "or drift" were added by section 6 *ibid.*

[6] The words within square brackets were added by section 7 *ibid.*

[7] The words and figures "Part II—Of the payment of Landing and Shipping Fees" were omitted by section 3 *ibid.*

[8] The words "by the Governor in Council" were inserted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1915 ; (Madras Act I of 1916).

[9] The words "may be levied" were substituted for the words "shall be levied" by *ibid.*

[10] The words within square brackets were inserted by section 8 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[11] Certain words were omitted by *ibid.*

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 :

[1] [Provided that the Governor in Council may, by general or special order, exempt any class or classes of [2] [passengers or] goods from payment of fees under this Act, and may, in special cases, remit the whole or any portion of any charge levied under this section.]

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 langages 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 [3] [or particular classes of 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 [3] [and places where passengers may land or embark] ;

(*b*) regulating the manner in which such fees shall be assessed and the time when they shall be paid ;

[4] [(*c*) providing for the ascertainment and recovery of the amount of any damage that may be caused to a pier, jetty, wharf, quay or other work in a port by any person or by any vessel or drift ; and

(*d*) generally for carrying out the purposes of this Act.]

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.

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[1] The proviso to section 4 which was repealed by Madras Act VIII of 1914 was added by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1915 (Madras Act I of 1916).

[2] The words "passengers or" were inserted by section 9 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919; (Madras Act V of 1919).

[3] The words within square brackets were inserted by section 10 *ibid.*

[4] Clauses (c) and (*d*) were added by section 11 *ibid.*

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 twenty-four hours after the landing of the goods as he shall think fit.

[1] [* * * * * * * *].

[2] [**9.** Where any vessel or drift fouls a pier, jetty, wharf or quay and causes damage thereto, the owner or master of the vessel or the owner of the drift, as the case may be, shall be liable for the amount of such damage which may be ascertained and recovered, in accordance with rules made by the Governor in Council, either by seizure and sale of such vessel or drift and of any property thereon or in such other manner as may be prescribed.]

[3] [**10.** (1) The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of fees leviable under this Act.

(2) Save as provided in sub-section (1) any contravention of any rule made under this Act shall be punishable with fine not exceeding one hundred rupees.]

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[1] The words and figures "Part III—Penalties" were omitted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[2] The original section 9 was renumbered as section 10 and the new section 9 was added by section 12 *ibid.*

[3] This section 10 was substituted for the original section 10 as renumbered by section 13 *ibid.*

THE MADRAS ABKARI ACT, 1886.

TABLE OF CONTENTS.

CHAPTER I.—PRELIMINARY AND DEFINITIONS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal of enactments.
3. Interpretation—
   (1) "Abkāri revenue."
   (2) "Abkāri officer."
   (3) "Commissioner."
   (4) "Collector."
   (5) "Abkāri inspector."
   (6) "Imprisonment."
   (7) "Toddy."
   (8) "Spirits."
   (9) "Liquor."
   (10) "Beer."
   (11) "Country liquor."
   (12) "Foreign liquor."
   (13) "Intoxicating drug."
   (14) "Sale" or "selling."
   (15) "Import."
   (16) "Export."
   (17) "Transport."
   (17-A) "Cultivation."
   (18) "Manufacture."
   (18-A) "Bottle."
   (19) "Rectification."
   (20) "Place."
   (21) "Police station."

CHAPTER II.—ESTABLISHMENT AND CONTROL.

4. The Governor in Council may appoint an officer to control the administration of the Abkāri department; may appoint special Collectors of Abkāri revenue; may withdraw Abkāri powers from Board of Revenue or Collectors of Land Revenue; may appoint officers to take action under sections 40 to 53, and subordinate officers; may appoint any Government officer or other person to act as above; and may delegate any of his powers to an Abkāri officer.
5. Rules for the guidance of Abkāri officers.
5-A. Power of Local Government to authorize officers to admit persons arrested to bail.

CHAPTER III.—IMPORT, EXPORT AND TRANSPORT.

6. Import of liquor or intoxicating drug.
7. Export of liquor or intoxicating drug.
8. Sections 6 and 7 not to affect certain laws and powers of Governor-General in Council.

SECTIONS.

9. Prohibition of the transport of liquor.
10. Transport of liquor or intoxicating drug.
11. Permits for transport.

CHAPTER IV.—MANUFACTURE, POSSESSION AND SALE.

12. Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.
13. Possession of liquor or intoxicating drugs in excess of the quantity prescribed by Government prohibited.
No fee to be charged for licence for possession for private consumption.
Proviso as regards foreign liquor.
13-A.
14. Establishment of public distilleries and of warehouses.
15. Sale of liquor or intoxicating drug without licence prohibited Power to exempt toddy.
16. Exclusive privileges of manufacture, etc., may be granted.

CHAPTER V.—DUTIES.

17. Duty on liquor or intoxicating drugs.
18. How duty may be imposed.
19. Tax for tapping unlicensed trees, from whom leviable.
20. Duties may be farmed.
21. Toddy farmer may grant licence.
22. Farmer may let or assign.
23. Recovery by farmer of rents due to him.

CHAPTER VI.—LICENCES, ETC.

24 Forms and conditions of licences, etc.
25 Counterpart agreement to be executed by licensees.
26. Power to recall licences, etc.

CHAPTER VII.—GENERAL PROVISIONS.

27. Certain licensees required to keep instruments for testing, etc.
28. Recovery of duties, etc.
29. Power to frame rules.

CHAPTER VIII.—POWERS AND DUTIES OF OFFICERS, ETC.

30. Magistrate may issue a search warrant on application.
31. Power to certain Abkari and Police officers to search houses, etc., without warrant.
32. Power to enter and inspect places of manufacture and sale.
33. In case of resistance, entry may be made by force, etc.
34. Offenders may be arrested, and contraband liquor and articles seized without warrant.
35. Arrest of persons refusing to give name or giving false name.
36. Searches how to be made.
37. Officers of certain departments bound to assist.

SECTIONS.

38. Offences to be reported, etc.
39. Landholders and others to give information.
40. Persons arrested, how to be dealt with.
Procedure by police station officer.
Procedure by Abkari officer empowered to inquire.
41. Persons arrested to be admitted to bail.
42. Bond of accused and sureties.
43. Procedure in case of default of person admitted to bail to appear before abkari inspector.
44. Abkari officers may summon witnesses.
45. Terms of summons.
46. Examination of witnesses by abkari inspectors.
47. When attendance of witnesses to be dispensed with, and procedure in such cases.
48. Abkari inspector may summon persons suspected of offences against abkari laws.
49. Law relating to criminal courts as to summoning of witnesses to apply.
50. Report of abkari inspector gives jurisdiction to a competent magistrate.
51. Powers of abkari inspector to cause attendance of witnesses before magistrate.
52. Accused not to be detained in custody for a longer period than twenty-four hours without special authority.
53. Police to take charge of articles seized.
54. Closing of shop for the sake of public peace.

CHAPTER IX.—PENALTIES.

55. For illegal import, etc.
55-A. Penalty for rendering or attempting to render denatured spirit fit for human consumption.
56. For misconduct by licensee, etc.
57. For adulteration, etc., by licensed vendor or manufacturer.
58. For possession of illicit liquor.
59. For vexatious search or arrest.
60. For vexatious delay.
61. For abetment of escape of persons arrested, etc.
62. [*Omitted.*]
63. For offences not otherwise provided for.
64. Presumption as to commission of offence in certain cases.
65. What things liable to confiscation.
66. Confiscation how ordered.
67. Power to compound offences.
68. Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

CHAPTER X.—MISCELLANEOUS.

69. Publication of rules and notifications.
70. The conferring of powers and making of appointments.
71. Exception of medicated articles.
72. Bar of actions.
Schedule.

MADRAS ACT No. I OF 1886.[1]

[THE MADRAS ABKARI ACT, 1886.]

[11*th January* 1886 ; 2*nd 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 :—

CHAPTER I.

PRELIMINARY AND DEFINITIONS.

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 [2] within the said Presidency to such extent and from such date as the Governor in Council by notification shall direct.

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 licences 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 licences 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.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 14th October, 1884, p. 13; for last report of the Select Committee, *see ibid*, Supplement, dated 9th December, 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 4th November, 1884, p. 3 ; *ibid*, dated 21st August, 1885, p. 11 ; *ibid*, dated 23rd October, 1885 ; p. 15, *ibid*, dated 18th November 1885, p. 23 ; *ibid*, dated 6th January, 1886, p. 1.

[2] All the provisions of the Act are now in force throughout the Presidency. See notification No. 196, published at page 470 of Part I of the *Fort St. George Gazette*, dated 12th April 1910.

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

(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. "Abkari revenue."

(2) "Abkari-officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under sections 4 or 5 and includes the Board of Revenue when exercising any of its functions or powers in respect of abakari revenue. "Abkari officer."

(3) "Commissioner" means the officer appointed by Government under section 4, clause (*a*). "Commissioner."

(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. "Collector."

(5) "Abkari-inspector" means an officer appointed under section 4, clause (*d*). "Abkari inspector."

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

(7) "toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree. "Toddy."

(8) "spirits" means any liquor containing alcohol and obtained by distillation [1][whether it is denatured or not]. "Spirits."

[2][*Explanation.*—"Denatured" means subjected to a process prescribed by the Local Government by notification for the purpose of rendering unfit for human consumption.]

(9) "liquor" includes spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol. "Liquor."

(10) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt. "Beer."

(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. "Country liquor."

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[1] These words were inserted by section 3 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This explanation was substituted by section 2 of the Madras Abkari Amendment) Act, 1915 (Madras Act I of 1915).

"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."

"Intoxicating drug."

[1][(13) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja*;

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(iii) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the Governor in Council may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930.]

"Sale" or "selling."

(14) "sale" or "selling" includes any transfer otherwise than by way of gift.

"Import."

(15) "import" means to bring into the Madras Presidency from sea, or from foreign territory or from any other part of British India.

[2][Provided that in the case of intoxicating drugs specified in sub-clauses (i), (ii) and (iii) of clause (13), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930.]

"Export."

(16) "export" means to take out of the Madras Presidency to sea, or to foreign territory or to any other part of British India.

[2][Provided that, in the case of intoxicating drugs specified in sub-clauses (i), (ii) and (iii) of clause (13), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930.]

"Transport."

(17) "transport" means to move from one place to another within the Madras Presidency.

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[1] This definition was substituted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[2] These provisos were added by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[1][(17 *A*) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed.] "Cultivation."

(18) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced [2][prepared or blended] and also re-distillation and every process for the rectification of liquor. "Manufacture."

[1][(18 *A*) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling.] "Bottle."

(19) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith. "Rectification."

(20) "place" includes also a house, building, shop, tent and vessel. "Place."

[3][(21) "police station" includes any place which the Governor in Council may, by notification, declare to be a police station for the purposes of this Act.] "Police station."

CHAPTER II.

Establishment and Control.

4. Notwithstanding anything contained in Regulations I and II of 1803,[4] 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 The Governor in Council may appoint an officer to control the administration of the Abkari department;

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[1] These sub-sections were inserted by section 3 (iv) and 3 (vi) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "prepared or blended" were substituted for the words "or prepared" by section 3 (v), *ibid.*

[3] This sub-section was inserted by section 3 (vii), *ibid.*

[4] These regulations are the Madras Board of Revenue Regulation, 1803, and the Madras Collectors Regulation, 1803. *See* now the Repealing and Amending Act, 1901 (XI of 1901).

direct that the control exercised by the Board of Revenue over Collectors in respect of the abkari revenue shall be exercised by such officer;

may appoint special Collectors of Abkari revenue;

(*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 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;

and subordinate officers;

(*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;

may appoint any Government officer or other person to act as above;

(*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;

and may delegate any of his powers to an Abkari officer.

(*g*) delegate to any Akbari officer all or any of his powers under this Act.

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.

power of Local Government to authorize officers to admit persons arrested to bail.

[1][**5-A.** The Governor in Council may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of

[1] This section was added by section 2 of the Madras Abkari (Amendment) Act, 1905 (Madras Act I of 1905).

officers or persons mentioned in section 34, either by name or in virtue of their office, throughout the Presidency or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed before an Abkari officer having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.]

CHAPTER III.

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,[1] 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.

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 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.

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 [2][into British India] 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.

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[1] Repealed by Act VIII of 1894. See now the Indian Tariff Act, 1934.

[2] These words were inserted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

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 *bona 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.

Permits for transport.

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.

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.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.

12. No liquor or intoxicating drug shall be manufactured ; no hemp plant (*Cannabis Sativa* [1][ ]) [2][ ] shall be cultivated ;

[1] The words " or *Indica* " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[2] The words " or coca plant (*Erythroxylon coca*) " which were inserted by section 4 (i) of the Madras Abkari (Amendment) Act, 1913, were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[1][no portion of the hemp [2][ ] plant from which any intoxicating drug can be manufactured shall be collected];

no toddy-producing tree shall be tapped;

no toddy shall be drawn from any tree;

no distillery or brewery shall be constructed or worked; [3][ ]

[4][no liquor shall be bottled for sale; and]

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 licence 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 licence for the manufacture of liquor for *bona fide* home consumption.

[5][Licences granted under this section shall extend to and cover servants and other persons employed by the licensees and acting on their 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 [6][or specially with regard to "persons, places or time"] in respect of any specified description or kind of liquor or intoxicating drug, unless under a licence granted by the Collector in that behalf.

Provided that—

No fee to be charged for licence for possession for private consumption.

(1) No fee shall be charged for any such licence granted for the possession of such liquor or intoxicating drugs for *bona fide* private consumption or use.

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[1] This paragraph was inserted by section 4 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "or coca" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[3] The word "and" was omitted by section 4 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were inserted by section 4 (iii), *ibid.*

[5] This paragraph was inserted by section 4 (iv), *ibid.*

[6] These words were substituted for the words "for the whole Presidency or for any local area" by section 5 (i). *ibid.*

Proviso as regards foreign liquor.

(2) Nothing in this section extends to any foreign liquor [1][other than denatured spirit] in the possession of any warehouseman as such, or [2][of] any person for his *bona fide* private consumption and not for sale.

[3][**13 A.** The Governor in Council may by notification prohibit the possession by any person or class of persons either throughout the whole Presidency or in any local area of any liquor or intoxicating drug either absolutely or subject to such conditions as he may prescribe.]

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 licence granted under section 12 on such conditions as the Governor in Council deems fit to impose ;

(*b*) discontinue any public distillery so established ;

(*c*) licence 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 licence prohibited. Power to exempt toddy.

15. No liquor or intoxicating drug shall be sold without a licence from the Collector, provided that a person having the right to the toddy drawn from any tree may sell the same without a licence 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 licence 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 [4][or to any officer whom the Commissioner may generally or specially authorize].

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[1] These words were inserted by section 5 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This word was substituted for the words "purchased by" by section 5 (ii), *ibid.*

[3] This section was inserted by section 6, *ibid.*

[4] These words were inserted by section 7 (i), *ibid.*

[1][Provided that a licence for sale in more than one district may be granted by the Commissioner.

Provided also that on such conditions as may be determined by the Commissioner a licence for sale granted under the excise law in force in another province may be deemed to be a licence granted under this Act.]

Provided further that the Governor in Council may [2] [by notification] 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 [3][under such conditions as the Commissioner may prescribe].

[4][Nothing in this section applies to the sale of any foreign 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.]

[5][*Explanation.*—The supply of liquor by clubs to their members on payment of a price or of any fee or subscription is not a sale within the meaning of this section, but a fee according to a scale of fees to be fixed by the Government, shall be levied from such clubs by the Commissioner.]

Exclusive privileges of manufacture, etc., 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 licence 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.

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[1] These provisos were substituted for the first proviso by section 7 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words were substituted for the words "in like manner" by section 7 (iii), *ibid.*

[3] These words were substituted for the words "in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery" by section 7 (iii), *ibid.*

[4] This was added by section 7 (iv), *ibid.*

[5] This explanation was added by section 2 of the Madras Abkari (Amendment) Act, 1929 (Madras Act XVIII of 1929).

CHAPTER V.

DUTIES.

Duty on liquor or intoxicating drugs.

[1][**17.** A duty of such amount as the Governor in Council may prescribe shall, if he 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*) permitted under section 11 to be transported ; or

(*d*) manufactured under any licence granted under section 12 ; or

(*e*) manufactured at any distillery established under section 14 ; or

(*f*) issued from a distillery or warehouse licensed or established under section 12 or section 14 ; or

(*g*) sold in any part of the said Presidency.

Provided that the duty on denatured spirit or beer manufactured in India shall, unless the Governor in Council with the previous sanction of the Governor-General in Council otherwise directs, be equal to the duty to which denatured spirit or beer respectively imported into British India by sea is liable under the Indian Tariff Act, 1894,[2] or any other law for the time being in force relating to the duties of customs on goods imported into British India.] VIII of 1894.

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 [3][a distillery, brewery or warehouse licensed or established under section 12 or section 14] 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 [4][or issued from a warehouse licensed or established under section 14] ;

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[1] This section was substituted for the original by section 8 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] See now the Indian Tariff Act, 1934.

[3] These words were substituted for the words " the distillery or brewery " by section 9 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were added by section 9 (ii), *ibid.*

(*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 licences 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 [1][import, export or] transport duties assessed in such manner as the Governor in Council may direct.

[2][Provided that where there is a difference of duty as between two licence periods, such difference may be collected in respect of all stocks of country liquor or intoxicating drugs held by licensees at the close of the former period.]

Tax for tapping unlicensed trees, from whom leviable.

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 licence 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 licence 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.

When, in like case, trees are tapped without licence, 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.

Duties may be farmed.

20. All or any of the duties leviable 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 licences as such from the Collector.

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[1] These words were added by section 9 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This proviso was inserted by section 9 (iv), *ibid.*

Toddy farmer may grant licence.

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 licence from the Collector for that purpose under section 12.

Farmer may let or assign.

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 licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

Recovery by farmer of rents due to him.

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 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.

CHAPTER VI.

Licences, Etc.

Form and conditions of licences, etc.

24. Every licence 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 licence under this Act may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the Collector may require.

Power to recall licences, etc.

26. The Collector may cancel or suspend any licence 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 licence 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 licence 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 [1][or of any offence [under the Dangerous Drugs Act, 1930, or][2] under the Merchandise Marks Act, 1889, or under sections 478 to 489 of the Indian Penal Code or is punished for any offence referred to in the eighth item of the schedule in section 167 of the Sea Customs Act, 1878] ; or

I of 1930.

IV of 1889.

VIII of 1878.

(*d*) where a licence 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 conditions of the licence or permit provide for such cancelment or suspension at will.

CHAPTER VII.

General Provisions.

Certain licensees required to keep instruments for testing, etc.

[3][**27.** Every person who manufactures or sells any liquor or intoxicating drugs under a licence granted under this Act shall be bound—

(*a*) to supply himself with such measures, weights and instruments as the Governor in Council may prescribe 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, or weigh any liquor or intoxicating drug or to test any liquor in his possession in such manner as the said Abkari officer may require.]

Recovery of duties, etc.

28. All duties, taxes, fines and fees payable to Government direct under any of the foregoing provisions of this Act or of any licence 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

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[1] These words and figures were inserted by section 10 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words and figures were inserted by Schedule II to the Dangerous Drugs Act, 1930 (II of 1930).

[3] This section was substituted by section 11 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

contract relating to the abkari revenue may be recovered 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 dues to the defaulter by any lessee or assignee as if they were arrears of land revenue.

Power to frame rules.

29. [1][(1) The Governor in Council may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the Governor in Council may make 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 licences 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 [2][ ] 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 ;

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[1] This was substituted for the words "The Governor in Council may from time to time make rules" and for the original clause (*o*) by section 12 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The word "country" was omitted by section 12 (ii).

(*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 ;

[1][(*l*)] regulating the cultivation of the hemp [2][ ] [3][plant], the collection of those portions of such [3][plant] from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom ;

[1][(*m*)] (1) declaring the process by which spirit manufactured in or imported into the Presidency shall be denatured ;

(3) for causing such spirit to be denatured through the agency or under the supervision of the excise officers ;

(4) for ascertaining whether such spirit has been denatured ;

[1][(*n*)] regulating the bottling of liquor for purpose of sale ;

[1][(*o*)] declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith ;

[1][(*p*)] for the grant of bátta 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 ;

[1][(*q*)] regulating the power of Abkari officers to summon witnesses from a distance under section 44 ;

[1][(*r*)] for the disposal of articles confiscated and of the proceeds thereof.

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[1] Clauses (*l*) to (*o*) were inserted after clause (*k*) and the original clauses (*l*), (*m*) and (*n*) were relettered as (*p*), (*q*) and (*r*) respectively by section 12 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "and coca" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[3] This word was substituted for the word "plants" by Schedule II, *ibid.*

CHAPTER VIII.

Powers and Duties of Officers, Etc.

Magistrate may issue a search warrant on application.

30. If any [1][Collector or] magistrate upon information [2][obtained] 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 [1][Collector or] 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 [1][Collector or] magistrate.

Power to certain Abkāri and Police officers to search houses, etc., 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.

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, any place in which any licensed manufacturer carries 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.

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[1] These words were inserted by section 13 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This word was substituted for the words " given by any Abkari or Police officer or any other person " by section 13, *ibid.*

In case of resistance, entry may be made by force, etc.

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 Abkāri, 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 such liquor, drug or other such article to be, or to be concealed.

[1][Provided that if the officer or person making the arrest under this section be not empowered under section 5-A to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if there be such an officer within a distance of five miles from the place where such arrest took place.

And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before an Abkāri officer having jurisdiction to inquire into the case.]

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 Abkāri, 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.

V of 1898.

[2][Provided that the persons called upon to attend and witness such searches shall include at least two persons neither of whom is an abkāri, police or village officer.]

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[1] This proviso was added by section 3 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

[2] This proviso was added by section 3 of the Madras Abkāri (Amendment) Act, 1929 (Madras Act XVIII of 1929).

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 Abkāri officer in carrying out the provisions of this Act.

Offences to be reported, etc.

38. Every officer employed by Government, other than an Abkāri officer, shall be bound to give immediate information to an Abkāri officer,

and every Abkāri officer shall be bound to give immediate information either to his immediate official superior or to an abkāri 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.

Landholders and others to give information.

39. All zamindars, 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 Abkāri, Salt, Police, Customs or Land Revenue departments immediately the same shall have come to their knowledge.

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 [1][or of section 34], forthwith forward him to an abkāri 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 Abkāri 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 Abkāri officer empowered to inquire.

(3) On any such person being brought in custody before such Abkāri officer as aforesaid or appearing before him on bail [1][or when such Abkāri officer as aforesaid has himself made the arrest] such officer shall hold such inquiry as he may think necessary and shall either release such

[1] These words and figures were inserted by section 4 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

person, or forward him in custody to, or admit him to bail to appear before the magistrate having jurisdiction to try the case.

[1][Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such Abkāri officer, the said officer shall, if sufficient bail be tendered for the appearance of the person arrested, admit the said person to bail to appear on any subsequent day before himself or any other Abkāri officer having jurisdiction to inquire into 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 Abkāri 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 abkāri 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 abkāri 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.

Procedure in case of default of person admitted to bail to appear before abkāri inspector.

43. When by reason of default of appearance of a person bailed to appear before an abkāri 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.

V of 1898.

Abkāri officers may summon witnesses.

44. Any Abkāri 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 relevant thereto which may be in his possession or under his control.

[1] This proviso was added by section 5 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905.)

Provided that no such Abkāri 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.

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.

Examination of witnesses by abkāri inspectors.

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.

When attendance of witnesses to be dispensed with, and procedure in such cases.

47. It shall be lawful for an abkāri 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 shall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

Abkāri inspector may summon persons suspected of offences against abkāri laws.

48. Any abkāri 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.

[1][The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 44 to 47 before summoning the person suspected.]

Law relating to criminal courts as to summoning of witnesses to apply.

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 abkāri inspector and to any person summoned by him to appear under the provisions of this Act.

Report of abkāri inspector gives jurisdiction to a competent magistrate.

50. When an abkāri 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,

[1] This paragraph was added by section 14 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

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.

V of 1898.

Powers of abkāri inspector to cause attendance of witnesses before magistrate.

51. When an abkāri 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.

Ibid.

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 offence 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 abkāri inspector may be and from thence to the court having jurisdiction to try the case.

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 abkāri inspector, all articles seized under this Act which may be delivered to them; and shall allow any Abkāri 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.

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.

CHAPTER IX.

PENALTIES.

For illegal import, etc.

55. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any licence or permit obtained under this Act,

(*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* [1][ ] [2][* * *[3] or collects any portion of such [plant][4] from which an intoxicating drug can be manufactured ; 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, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug ; or

[5][(*h*) bottles any liquor for purposes of sale ; or]

[5][(*i*)] 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.

Penalty for rendering or attempting to render denatured spirit fit for human consumption.

[6][**55-A.** Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in British India or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction before a Magistrate be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees or both. For the purpose of this section it shall be presumed unless and until the contrary is proved that any spirit which is proved on chemical

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[1] The words "or *Indica*" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[2] The words "the coca plant (*Erythroxylon coca*) ; or collects any portion of such plants from which an intoxicating drug can be manufactured ; or" were added by section 15 (1) of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[3] The words "the coca plant (*Erythroxylon coca*)" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Act II of 1930).

[4] This word was substituted for the word "plants" by Schedule II, *ibid.*

[5] This clause was inserted and the original clause (*h*) was relettered as (*i*) by section 15 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[6] This section was substituted by section 3 of the Madras Abkāri (Amendment) Act, 1915 (Madras Act I of 1915).

analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.]

For misconduct by licensee, etc.

56. Whoever, being the holder of a licence or permit granted under this Act, [1] [or being in the employ of such holder and acting on his behalf]—

(*a*) fails to produce such licence or permit on the demand of any Abkāri officer or of any other officer duly empowered to make such demand; or

(*b*) [2] [wilfully does or omits to do anything] in breach of any of the conditions of his licence or permit not otherwise provided for in this Act; or

(*c*) wilfully contravenes any rule made under section 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.

For adulteration, etc., by licensed vendor or manufacturer.

57. Whoever, being the holder of a licence 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 272 of the Indian Penal Code; or

XLV of 1860.

(*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

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[1] These words were inserted by section 17 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words were substituted for the words "does any Act" by section 17, *Ibid.*

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 482 of the Indian Penal Code ; or XLV of 1860.

(*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 486 of the Indian Penal Code,

shall, on conviction before a magistrate, be punished for each *ibid.* 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.

For possession of illicit liquor.

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 vexatious search or arrest.

59. Any Abkāri officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any closed place ;

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.

For vexatious delay.

60. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an abkāri 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 article seized under this Act, shall, on conviction before a magistrate, be punished with fine which may extend to two hundred rupees.

For abetment of escape of persons arrested, etc.

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

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 abkāri 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.

[1][**62.** *Omitted.*]

For offences not otherwise provided for.

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, shall, on conviction before a magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

Presumption as to commission of offence in certain cases.

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 ;

and the holder of a licence 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.

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 [2][or by means,] of which an offence has been committed shall be liable to confiscation.

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[1] This section was omitted by section 18 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words were inserted by section 19 *ibid.*

Any liquor or intoxicating 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, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, 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.

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.

[1][Provided further that if the thing in question is liable to speedy and natural decay or if the Commissioner or any other officer authorized by the Governor in Council in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

Power to compound offences.

67. Any Abkari officer specially empowered in that behalf may accept from any person whose licence 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

[1] This proviso was added by section 20, of the Madras Abkāri (Amendment) Act, 1913 (Madras Act 1 of 1913).

offence under [1][section 55, 56, 57, 58 or 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.

V of 1898. XLV of 1860.

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.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

CHAPTER 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 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.

Publication of rules and notifications.

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.

[2][**71.** The Governor in Council may by notification either wholly or partially, subject to such conditions as he may think fit to prescribe, exempt any liquor or intoxicating drug from all or any of the provisions of this Act, either throughout the Presidency or in any specified area, or for any specified period or occasion or as regards any specified person or class of persons.]

Exception of medicated articles.

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[1] These words and figures were substituted for the words and figures "section 6 or section 63" by section 21 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This section was substituted by section 22 *ibid.*

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 *bona 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.

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.
[1] Act XVI of 1863.	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
[2] [* * * *]		
[2] [* * * *]		
[1] Act VIII of 1894	The Indian Tariff Act, 1894.	Section 6.

[1] These items were inserted by section 23 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The entries relating to Madras Acts III of 1864 and V of 1879 have been omitted as these Acts have been repealed.

MADRAS ACT No. IV OF 1886.[1]

[The Railway Protection Act, 1886.]

[*9th April*, 1886 : *31st June* 1886.]

An Act to provide for the prevention of injury to Railways from the escape or overflow of water from irrigation works situated upon the lands of Zamindars or other Landholders.

WHEREAS it is expedient to provide for the prevention of injury to lines of railway from the escape and overflow of water from rivers, tanks, channels or irrigation-works situated upon the lands of landholders ; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Railway Protection Act, 1886. Short title.

It extends to the territories for the time being administered by the Governor in Council of Fort St. George. Local extent.

2. In this Act,

the term "landholders" shall be taken to include all persons holding under a sanad-i-milkiyat-i-istimrar, all other zamíndárs, shrotriemdars, jagirdárs, inamdārs and all persons farming the land-revenue under Government, but shall not include holders of lands under raiyatwari settlement : "Landholders."

"railway" means a railway for the public conveyance of passengers or goods : "Railway."

it includes—

(*a*) all land within the fences or other boundary marks prescribed under section 52, Act IV of 1879 [2] (India) ;

(*b*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(*c*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a railway ;

"irrigation-wokrs" means and includes tanks, river-channels, embankments, sluices, weirs, revetments and other works of a like description situated upon the lands of landholders. "Irrigation-works."

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 9th October, 1885, p. 3 ; for Report of the Select Committee, *see ibid*, dated 23rd December 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st August, 1885, p. 11 ; *ibid*, dated 23rd October, 1885, p. 19 and *ibid*, dated 7th April 1886, p. 2.

The Act came into force on 1st September 1886—*see Fort St. George Gazette* 1886, Pt. I, p. 692.

[2] *See* now the Indian Railways Act, 1890 (IX of 1890).

Collector of the district may inspect irrigation works.

3. The Collector of the district or any officer appointed by him on that behalf may at any time enter upon the lands of any landholder and inspect, or cause to be inspected, any irrigation-works which shall be so situated within such lands that any railway may appear liable to be injured from the escape or overflow of water therefrom.

When Collector considers measures should be taken to protect a railway he shall cause plans and estimates of the necessary measures to be prepared.

4. Whenever it shall appear necessary to the Collector that measures should be taken in respect of any irrigation-work for the protection of any railway, he shall cause to be prepared plans and estimates specifying the measures which, having regard to the safety of the railway and the interests of the landholders, tenants and other persons concerned, he may think necessary, and he shall also record a statement showing with reasons how far, in his opinion, the landholder in possession of, or having control over, the said works is liable to contribute towards the expenses to be incurred in carrying out the said measures. Such statement shall contain—

(1) a description of the works upon which the measures are to be executed ;

(2) the name of any landholder who, to the best of the Collector's information and belief, is in possession of, or has control over, such works.

(3) the proportion, if any, of the estimated expenditure which is to be borne by the landholder.

The Collector shall cause copies of a vernacular translation of such statement to be fixed in some conspicuous place or places in the village or villages to which the said works belong.

Collector to send the plans and estimates to the landholder concerned, with an order to him to take the measures specified or to show cause why he should not do so.

5. The Collector shall, upon the completion of the plans, estimates and statement mentioned in the last preceding section, send copies thereof to the landholder named in the statement as being in possession of, or having control over, the irrigation-works described therein, together with an order in writing requiring the landholder so named as aforesaid within a reasonable time fixed in the notice to carry out the measures specified in the said plans and estimates, or to appear before the Collector and show cause why he should not carry out the same.

Collector may cancel or modify the order.

6. If the landholder appears before the Collector and satisfies him, after such inquiry as he thinks fit, that he is not the landholder in possession of, or having control over, the works named in the statement, or that other measures than those proposed may, with due regard to the safety of the railway, be adopted for the protection thereof, or that he ought not to bear the whole or any part of the cost which he has been

called upon to bear for the purpose of carrying out the proposed measures, the Collector shall cancel or modify the order accorddingly.

If the order is not cancelled, Collector to call upon the landholder by notice to execute the measures.

7. If the order is not cancelled by the Collector, he shall by a written notice call upon the landholder so named as aforesaid to carry out, within a reasonable time to be named in the notice, the measures specified in the order as originally issued or modified, as the case may be. The notice shall contain a copy of such order.

Tenants and others interested may make representation to the Collector as to the nature of proposed measures.

8. Pending such an inquiry by the Collector or at any time within thirty days of the date when the copy of the notice is fixed as aforesaid, it shall be lawful for the tenants or other persons concerned to appear before the Collector and make such representations as they may think fit with regard to the nature of the proposed measures.

If landholder fails to execute the measures, the Collector shall report the matter to the Government, who may direct the execution of measures.

9. In the event of the measures specified in the order mentioned in section 7 not being carried out within the time fixed, the Collector shall report the matter for the orders of the Governor in Council, who may direct that the proposed measures be carried out, or pass such other orders as he may deem fit. A copy of the order of the Governor in Council shall be sent to the landholder, and shall be published in the Gazette of the district or districts concerned.

After execution of measures, notice to be served on landholder to pay cost of measures.

10. After the execution of the said measures, the Collector shall cause to be served upon the landholder a memorandum showing the total cost incurred in the execution of the same and the sum which, in the opinion of the Collector, the landholder is liable to pay, together with a notice requiring him to pay the same within a time to be fixed in such notice.

Procedure in case of emergency.

11. In cases in which, in the opinion of the Collector of any district in which any irrigation-work may be situated, the immediate execution of any measures in respect of such work is necessary for preventing serious danger to life or property, or serious obstruction to public traffic upon any railway, he may order the execution of such measures, and shall without unnecessary delay record a statement showing the grounds of his opinion and the material facts of the case. A copy of the statement shall be served upon the landholder who, according to the Collector's information, is in possession of, or has control over, such work, together with a memorandum showing the nature of the measures executed, the total

cost thereof, and the sum which, in the opinion of the Collector the said landholder is liable to pay, and with a notice calling upon him, within a reasonable time to be fixed therein, to pay the same, or to appear before the Collector and show cause why he should not pay the same.

Collector to decide what sum the landholder is liable to pay.

12. If the landholder appears before the Collector and shows cause under section 11, the Collector shall, after such inquiry as he may deem fit, decide what sum, if any the landholder is liable to pay, and shall cause a notice to be served upon him calling upon him to pay the same within a time to be fixed therein.

Collector may appoint assessors in inquiry regarding landholder's liability.

13. In the inquiry held by the Collector under section 6 or section 12, the Collector may, on the application of the landholder, appoint, for the purpose of ascertaining the liability of the landholder and the extent thereof, not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the landholder ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

may fix a time within which they are to submit their opinion.

If landholder neglects or refuses to pay, Collector may file a suit.

14. If any landholder, upon whom a notice shall have been served under section 10, section 11 or section 12, shall neglect or refuse to pay the sum mentioned therein in whole or in part, the Collector may file a suit in the Civil Court for the recovery of the said sum or such part thereof as may remain unpaid.

Court to try the case as provided by the Civil Procedure Code.

15. The Court shall thereupon proceed to try the suit and pass a decree in the manner provided by the Code of Civil Procedure[1] for the hearing off suits : XIV of 1882.

Provided that the said landholder shall not in any such suit be held liable in an amount exceeding that which he, in the exercise of due and proper care as a landholder, would have expended on the maintenance of the works mentioned in the order made as aforesaid.

Compensation to landholder for loss or damage caused by protective measures.

16. Any landholder or other person shall be entitled to reasonable compensation for any loss or damage occasioned to him by, or in the course of the execution of, any of the measures taken under section 5 or section 7 or section 9 or section 11. The amount of such compensation shall be fixed by the Collector after such inquiry as he may deem fit.

Collector may appoint assessors in inquiry regarding compensation.

17. For the purposes of this inquiry the Collector may, on the application of the claimant, appoint not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the claimant ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

[1] *See now* the Code of Civil Procedure, 1908 (Act V of 1908).

may fix a time within which they are to submit their opinion.

18. In the event of the Collector and the said landholder or other person being unable to agree as to the amount of such compensation, it shall be lawful for the said landholder or other person to file a suit in the Civil Court for the recovery of such compensation. If landholder is dissatisfied with the compensation awarded, he may file a suit.

19. Every notice given under the provisions of this Act shall, if practicable, be served personally on the person to whom it is addressed; or, if he cannot be found, the notice may be left at his usual or last known place of abode with some adult member of his family, servant or agent, or may be sent by a registered letter, or may be put upon some conspicuous part of his usual or last known place of abode, and shall thereby be deemed to have been duly presented or served. Notice how to be served.

20. The Governor in Council may, by notification published in the Fort St. George Gazette, and in the Gazette of the district or districts concerned, from time to time, authorize any revenue-officer not below the rank of Deputy Collector to exercise any of the powers of a Collector under this Act, and may in like manner at any time withdraw or modify such authority. Government may authorize Revenue-officer to exercise powers of Collector.

MADRAS ACT NO. I OF 1888.[1]

[THE LOCAL AUTHORITIES' LOAN ACT, 1888.]

[*26th January* 1888; *and 20th April* 1888.]

An Act to empower Local Authorities to guarantee Interest on, or to create a Fund for Re-payment of, Capital expended on certain purposes.

WHEREAS it is expedient to empower local authorities to charge their funds with the payment of interest on Capital applied to the carrying out of works to the execution of which the funds of the local authority can legally be applied; it is hereby enacted as follows:— Preamble.

1. This Act shall be called the Local Authorities' Loan Act, 1888. It extends to the whole of the Madras Presidency [2]* * * * * * * Short title, and extent.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th November 1887, p. 1; for the Report of the Select Committee, *see ibid.*, dated 3rd January 1888, p. 1; for Proceedings in Council, *see ibid.* Supplement, dated 29th November 1887, p. 4; *ibid.*, dated 24th January 1888, p. 1.

[2] The words "and shall come into force upon the passing thereof," were repealed by the Repealing and Amending Act, 1901 (XI of 1901)—Third Schedule, Part III.

Local authority.

2. In this Act "local authority" means any district or municipal board constituted under the provisions of Acts IV[1] and V[1] of 1884 (Madras) or other such law for the time being in force ; and

Funds.

"funds," used with reference to any local authority, means any district or municipal fund to the control or management of which such authority is entitled, and any rates, taxes or tolls leviable by, and any property vested in, such authority.

Power of local authority to guarantee payment of interest on, or to create a fund for re-payment of, capital expended on any work to which the funds may be applied.

3. The Local Government [* * * * * * * *][2], may authorize any local authority, either severally or in conjunction with any other local authority, to charge its funds or any part thereof by way of guarantee for the payment of interest on, or by the creation of a fund for the re-payment of, moneys expended or to be expended on any work or for any of the purposes to which such funds might be by law applied.

Remedy by attachment if engagements not fulfilled.

4. In the event of default being made by a local authority in the fulfilment of engagements entered into under the last preceding section, the Governor in Council may, on the application of a person entitled under such engagements, attach the funds made subject to charge on account thereof. After such attachment, no person, except an officer appointed in this behalf by the Governor in Council, shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the local authority might have done if such attachment had not taken place, and may apply the proceeds to the discharge of the liabilities incurred and in payment of all costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings consequent thereon :

Attachment not to defeat prior charges legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Power of Government to make rules.

5. The Governor in Council may, from time to time, make rules consistent with this Act as to—

(1) the nature of the funds on the security of which interest may be guaranteed ;

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[1] *See now* Madras Acts V and XIV of 1920.

[2] The words "with the previous sanction of the Governor General in Council" were omitted by the Devolution Act, 1920 (Act XXXVIII of 1920—First Schedule, Part III.)

(2) the works for the carrying out of which the payment of interest may be guaranteed ;
(3) the manner of making application for sanction to give such guarantee ;
(4) the inquiries to be made in relation to such applications and the manner of conducting such inquiries ;
(5) the inspection of any works carried out under any contract in respect of which the payment of interest is guaranteed under this Act ;
(6) the accounts to be kept by the person or corporate body with whom such contract is made and for the inspection of the same ;
(7) attachment of the funds and the manner of collecting or disposing of them ;

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

All such rules shall be published in the Fort St. George Gazette.

The Governor in Council may, in like manner, from time to time, cancel or alter such rules. Cancellation or alteration of rules.

MADRAS ACT No. II OF 1888.[1]

[THE PLACES OF PUBLIC RESORT ACT, 1888.]

[*12th April* 1888 ; *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.

1. (1) This Act may be called the Places of Public Resort Act, 1888. Short title.

* * * * * *[2]

[3](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,[4] or other Act of the Local extent.

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 8th November 1887, p. 19 ; for Report of the Select Committee, *see ibid*, dated 31st January 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 5, and *ibid*, dated 27th March 1888, p. 11.

[2] Sub-sec. (2) relating to the Act coming into force upon its being passed, was repealed by the Repealing and Amending Act, 1901 (XI of 1901)—Third Schedule, Part III.

[3] For notifications under this sub-section, *see* Madras List of Local Rules and Orders, Ed. 1923, Vol. II, and its supplements.

[4] *See* now Madras Act V of 1920.

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 Municipal Council" means the Chairman of a Municipal Council appointed under Madras Act IV of 1884,[1] 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 : [2] X of 1882

"building" includes any house, hut, shed or roofed enclosure.

No enclosed place or building with area of five hundred square feet to be used for public resort without a license.

3. Within any area in which this Act is in force, no enclosed place or building, whether permanent or temporary, having an area of five hundred square feet or upwards, shall be used for public resort or entertainment, unless a license has been previously obtained in the manner hereinafter provided.

Application for license : what it must contain.

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.

Authority to whom application should be made.

5. Such application 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.

The authority shall inspect and may require addition or alteration to place or building.

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

[1] *See* now Madras Act V of 1920.
[2] *See* now Act V of 1898.

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.

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—

(*a*) that the license has been fraudulently obtained;

(*b*) 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 thirty 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 either 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 therewith, may make or cause to be made any further inquiry, 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.

THE MADRAS CITY POLICE ACT, 1888.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
   Local extent.
2. *Repealed.*
3. Interpretation-clause.
4. Police Superannuation Fund.
5. Appointment and removal of Commissioner of Police.
6. Appointment and removal of Deputies or Assistants to the Commissioner.
7. Commissioner's power as a Magistrate.

SECTIONS.

8. Commissioner and his Deputies and Assistants to be Justices of the Peace.
9. Constitution of Police-force.
10. Commissioner to make rules for the government of the force.
11. Commissioner to appoint, dismiss, etc., members of the force.
12. Members of the force to receive certificates of enrolment. Form of enrolment.
13. Members of force not to resign without leave or notice.
14. Members to deliver up certificate, clothing, etc., on resignation.
15. Penalty for neglect or violation of duty.
16. Power of Police enrolled under Act XXIV of 1859.
17. Appointment of special constables.
18. Powers of special constables.
19. Penalty for special constable neglecting to serve.
20. Power to quarter additional Police in disturbed parts.
21. Appointment of additional constables on application of private individual.
22. Recovery of moneys due.
23. Duties of Police-officers.
24. Power to arrest without warrant on view of offence.
25. Apprehension of offenders by private individual.
26. Power to search for stolen property without warrant.
27. Power to seize property regarding which an offence is suspected.
28. Pawnbrokers to report stolen property tendered to them.
29. Power to fix period within which stray dogs may be killed.
30. Power to take charge of property of intestate under 200 rupees, and deliver to party entitled.
31. Provisions of Criminal Procedure Code to apply.
32. Commissioner to keep standard weights and measures.
33. Power of Police to enter shops to inspect weights and measures.
34. Places of public resort to be licensed.
35. Eating-houses, etc., to be licensed.
36. Conditions for issue of licenses.
37. Penalty for omission to procure licenses.
38. Power to enter and inspect unlicensed places.
39. Power to make rules for regulation of places of public entertainment.
40. Service of copy of order made on owner.
41. Power to regulate processions in public streets, keep order, etc.
42. Power to grant warrant to enter common gaming-houses.
43. Evidence as to common gaming-house.
44. Proof of playing for stakes unnecessary.
45. Penalty for opening, etc., common gaming-house.
46. Penalty for gaming in common gaming-house.
47. Instruments of gaming may be destroyed on conviction
48. Indemnification of witnesses.
49. Saving of games of skill.
50. Payment of portion of fine to informer or Police.
51. Penalty for cheating at games.

SECTIONS.

52. Brothels.
53. Penalty for cruelty to animals.
54. Appointment of infirmary for animals.
55. Magistrate may order animal to be destroyed or sent to infirmary.
56. Animals sent to infirmary may be detained and shall be removed after notice.
57. Power to sell such animals in default of payment of charges, etc.
58. Power of Magistrate to order delivery of animal.
59. Costs of inquiries.
60. Stray animals to be impounded.
61. Power of Police on the occasion of fire.
62. Cost of establishment, etc., for extinguishing fire.
62-A. Penalty for false alarm of fire.
63. Penalty for wilful trespass.
64. Penalty for being found armed between sunset and sunrise, etc.
65. Penalty for possession of property believed to have been stolen.
66. Penalty for buying or taking pledge from a child.
67. Penalty for introducing spirits, etc., into barracks or on board vessels of war.
68. Penalty for introducing spirits into hospitals.
69. Penalty for carrying weapon without authority.
70. Penalty for harbouring deserters from vessels.
71. Penalty for certain offences in public street—
(i) Rash or negligent driving ;
(ii) Causing obstruction by negligence in driving cattle ;
(iii) Driving, etc., elephant or camel without Commissioner's permission ;
(iv) Driving, etc., without lights ;
(v) Driving, etc., otherwise than on the near or left side of road ;
(vi) Driving, etc., vehicles without springs otherwise than on side of roads ;
(vii) Driving, etc., animal or vehicle on foot-way ;
(viii) Permitting cattle or vehicle to be under control of child ;
(ix) Leaving vehicle or cattle without due control ;
(x) Exposing for show animals or vehicles, making or repairing vehicle, etc. ;
(xi) Obstructing thoroughfare ;
(xii) Letting loose horses or ferocious dogs ;
(xiii) Conveying article which projects more than five feet ;
(xiv) Flying a kite, wantonly frightening horses, etc. ;
(xv) Playing music, beating tom-tom, etc.
(xvi) Affixing bills or defacing walls ;
(xvii) Bathing in public street or acqueduct ;
(xviii) Intruding on or fouling bathing-place ;
(xix) Using indecent or threatening language ;
(xx) [Repealed] [*Repealed*].
(xxi) Begging ;
72. Penalty for gambling or cock-fighting in street etc.

SECTIONS.

73. Penalty for committing nuisance in street.
74. Penalty for lighting bonfire, discharging fire-arm, fire-work, etc., in or near street.
75. Penalty for drunkenness or riotous or indecent behaviour in street, etc.
76. Penalty for breach of conditions of licenses.
77. Fee for licenses.
78. Power to make bye-laws.
79. Bye-laws to be published in English and Vernacular.
80. Penalty for breach of bye-law.
81. Limitation of actions.
82. Saving of penalty provided by other law.

MADRAS ACT III OF 1888.[1]

[THE MADRAS CITY POLICE ACT, 1888.]

[12*th April*, 1888; *and* 26*th June*, 1888.]

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

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 :— Preamble.

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

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

(3) * * * * * * * * *[2]

2. [*Enactments repealed.*] *Rep. by the Repealing and Amending Act*, 1901 (*XI of* 1901).

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

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

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

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

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 8th November 1887, p. 17; for Report of the Select Committee, *see ibid*, dated 31st January 1888, p. 1; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 2, and *ibid*, dated 27th March 1888, p. 8.

[2] The words "It shall come into force at once" were repealed by the Repealing and Amending Act 1901, (XI of 1901)—Third Schedule, Part III.

'Imprisonment.' "imprisonment" means imprisonment of either description as defined in the Indian Penal Code : XLV of 1860.

"Common gaming-house". "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 :

"Gaming." [1]["Gaming" does not include a lottery but includes wagering or betting on a horse-race except when such wagering or betting takes place—

(i) on the date on which such race is to be run ; and

(ii) in a place or places within the race enclosure which the authority controlling such race has with the sanction of the Local Government set apart for the purpose.

"Instruments of gaming." "Instruments of gaming" include an article used as a subject, or means of, or for the purpose of carrying on or facilitating, or in connection with gaming and any books, lists, tickets, forms or other documents used or intended to be used as a register or record or evidence of gaming.]

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

Police Superannuation Fund. **4.** Nothing in this Act contained shall operate to deprive any person who, on the first day of September, 1867, was a subscriber to the Town Police Superannuation Fund constituted under Act XIII of 1856 [2] of any of the privileges which he would have had under sections 18 and 19 of that Act.

Appointment and removal of Commissioner of Police. **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 :

Administration of Police employed at railway-stations, etc., may be vested in the Inspector-General of Police. [3][Provided that the Governor in Council may, by notification in the *Fort St. George Gazette*, which he may cancel or vary, at any time direct that the administration of such of the Police within the City of Madras as are or may be employed at any railway-stations or on any railway-premises or within the limits of any railway or part of any railway situated within the

[1] The definitions within square brackets were inserted by section 2 of the Madras City Police (Amendment) Act, 1929; (Madras Act XIII of 1929).

[2] Repealed in the Madras Presidency by Mad. Act VIII of 1867, which was repealed by Mad. Act III of 1888.

[3] This proviso was added by s. 1 of Mad. Act III of 1898. As to control by the Inspector-General of Police of the city police, *see* Mad. Act III of 1907.

limits of the City of Madras, shall be vested in the Inspector-General of Police, and from and after the issue of such notification the powers under this Act of the Commissioner and of his deputies or assistants in respect of such Police shall cease, and the Inspector-General of Police and under his control such officers as shall be appointed by the Governor in Council to be Superintendent or Assistant Superintendent of Railway Police, shall as regards such Police exercise all the powers of the Commissioner of Police under this Act, save that the power conferred on the Commissioner by section 10 shall, in respect of such Police, be exercised by the Inspector-General of Police alone.]

Appointment and removal of Deputies or Assistants to the Commissioner.

6. The Government 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.

Commissioner's powers as a Magistrate.

7. The Commissioner shall by 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.[1]

X of 1882.

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

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 detection, apprehension and detention of offenders, and for the performance of the duties assigned to the Commissioner by this Act.

Constitution of Police force.

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.

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

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.

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

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.

[1] *See* now Act V of 1898.

Members of the force to receive certificates of enrolment.

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

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.

Members of force not to resign without leave or notice.

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.

Member ceasing to belong to the force to deliver up certificate, clothing, accoutrements, etc.

14. Every member of the force shall, on ceasing to belong thereto, forthwith deliver up to 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 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 one hundred rupees, 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 eighteen and fifty-five to be a special constable 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.

Powers 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-force, 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 additional 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 ur der the last two preceding 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.

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 a 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,[1] relating to searches. X of 1882.

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, etc., to report stolen property if tendered for pawn or sale.

28. Any officer of Police may deliver to any pawnbroker, dealer in secondhand 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

[1] *See* now Act V of 1898.

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 to, moveable property under two hundred 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 evidence of title and upon such terms as he may think fit, to any person who may appear to him to be entitled thereto ; [1] 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.

Certain provisions of Code of Criminal Procedure, 1882, to apply.

X of 1882.

31. The provisions of sections 523, 524 and 525 of the Code of Criminal Procedure, 1882,[2] shall, as nearly 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[3] 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.

XLV of 1860.

Power of Police to enter shops to inspect weights, etc.

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.

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[1] As to saving of this provision from the operation of the general succession law, *see* the Administrator General's Act, 1913 (III of 1913) s. 55.

[2] *See* now Act V of 1898.

[3] As to standard measures, *see* the Measures of Length Act, 1889 (II of 1889), s. 7.

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, etc., 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,[1] 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.

[2][**37.** (1)] 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.

[2][(2) Whoever opens, keeps or uses, or permits to be opened, kept, or used any enclosure, room or place for the purpose of gaming on a horse-race, shall be liable, on conviction, to imprisonment not exceeding three months or for every day on which such enclosure, room or place is so opened, kept or used, to a fine not exceeding five hundred rupees or to both.

(3) Whoever is found gaming on a horse-race shall be liable, on conviction, notwithstanding any provision to the contrary in this Act, to a fine not exceeding five hundred rupees or to imprisonment not exceeding one month.]

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[1] As to sale of intoxicating drugs or liquors, *see* the Mad. Abkari Act, 1886 (Madras Act I of 1886), Ch. IV.

[2] Section 37 was renumbered as sub-section (1) of section 37 and sub-sections (2) and (3) were added by section 3 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

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.

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, etc.

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.

[1][**42.** (1)] If the Commissioner has reason to believe that any [place][2] 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 [place][2] 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 [2][place] and also the persons found therein.

[1](2) The Commissioner may, instead of issuing a warrant under sub-section (1), himself exercise all or any of the powers exercisable under such warrant.]

Cards, dice, etc., 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 [place][2] entered or searched under the provisions of the last preceding section, or on any person found therein, shall be evidence that such [place][2] 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 [bet][3] or stake.

Penalty for opening, etc., 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.

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[1] Section 42 was renumbered as sub-section (1) of section 42 and sub-section (2) was added by section 2 of the Madras City Police (Amendment) Act, 1933 (Madras Act VI of 1933).

[2] The word "place" was substituted for the words "enclosed place or building" by section 4 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

[3] The word "bet" was inserted by section 5 *ibid.*

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 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 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 [1][bets] or adventures, or in betting on the sides or hands of the players, or in wagering [1][or betting] 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.

XLV of 1860.

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.

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[1] The words "bets" and "or betting" were inserted by section 6 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

Appointment of infirmary for animals.

[1]**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, etc., 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.

Magistrate may order delivery of animal to owner.

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.

Costs of inquiries.

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 inquiry as the Magistrate may direct.

Stray animals to be impounded.

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 pound 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

[1]For instance of a notification under the powers conferred by this section, *see* Madras List of Local Rules and Orders, Vol. II.

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.

Powers of Police on the occasion of a fire.

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

(*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 hoses 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 damaged 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, etc., 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 false alarm of fire.

[1][62 A. Whoever gives or causes to be given to any fire-brigade in the City of Madras or to any officer or fireman thereof, whether by means of a street fire-alarm, statement, message or otherwise, any alarm of fire which he knows to be false, shall be liable on conviction to fine which may extend to fifty rupees.]

Penalty for wilful trespass.

63. Whoever without reasonable excuse wilfully enters into or on 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, etc.

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, etc., 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

[1] Section 62-A was inserted by section 2 of the Madras City Police (Second Amendment) Act, 1933 (Madras Act XIII of 1933).

drug or preparation, without the licence in writing of the Commanding Officer and not intended for some person above the rank of non-commissioned officer, shall be liable on conviction 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, etc., 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 from 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 :—

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

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

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

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. [1]* * * * Driving, etc., without lights.

[1] The words "except when there may be sufficient moonlight to render such light unnecessary" were repealed by Mad. Act IV of 1905.

Driving, etc., 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, etc., 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, etc., animal or vehicle on a foot-way.

vii. Whoever leads or rides any animal, or drives, drags or 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 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 five 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, etc.

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

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. Playing music, beating tom-tom, etc.

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. Affixing bills or defacing walls.

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

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. Intruding on or fouling bathing-place.

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. Using indecent or threatening language.

[1] [xx. * * * * *] Begging.

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.

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 of 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 Penalty for lighting bonfire, burning a straw, discharging fire-arm, etc., in or near any street.

[1] Clause xx was repealed by section 3 of the Madras Suppression of Immoral Traffic Act, 1930 (Madras Act V of 1930).

or other matter, discharges any fire-arm or air-gun, lets off or discharges any firework, 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 drunkenness or riotous or indecent behaviour in street, etc.

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 breach of conditions of licences.

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

Fee for licence.

77. For every licence 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.

Power to make by-laws.

78. The Governor in Council may make by-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 by-law.

By-laws to be published in English and vernacular.

79. Every by-law shall be published in the *Fort St. George Gazette* in English, Tamil, Telugu and Hindustani; and no by-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 by-law.

80. For any breach of any such by-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.

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. Saving of penalty provided by other law.

SCHEDULE.

[*Repealed by the Repealing and Amending Act*, 1901 (*XI of* 1901), *Third Sch., Pt. III.*]

MADRAS ACT No. I OF 1889.[1]

[THE MADRAS VILLAGE COURTS ACT, 1888.]

[*1st December*, 1888 ; *30th January*, 1889.]

An Act to consolidate and amend the law relating to the courts of village munsifs in the Presidency of Fort St. George.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Village Munsifs in the Presidency of Fort St. George ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

(1) This Act may be called "The Madras Village Courts Act, 1888," and shall come into force at once.[2] . . . Short title and commencement.

(2) It extends to the territories subject for the time being to the Governor in Council of the Presidency of Fort St. George, except the Scheduled Districts as defined in Act No. XIV of 1874, and the town of Madras. Provided that the Governor in Council may by notification in the *Fort St. George Gazette* from time to time withdraw any village or area from its operation and cancel such notification. Local extent.

2. [*Enactments repealed.*] *Repealed by section* 3 (2) *of the Repealing and Amending Act*, 1901 (*XI of* 1901).

3. All suits pending in the courts of village munsifs at the time of this Act coming into force shall be deemed to have been instituted under this Act, and all decrees passed by village munsifs before such date may be executed under the Application of Act to suits or decrees pending.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 20th December 1887, p. 13 ; for Report of the Select Committee, *see ibid*, dated 15th May 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 24th January 1888, p. 1, and *ibid*, dated 13th November 1888, p. 14.

[2] Certain words were omitted by the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

The Act has been declared not to apply to the East Godavari Agency [by notification under sub-section (2) of section 52-A of the Government of India Act—see Notification No. 136].

provisions hereinafter contained relating to execution of decrees passed under this Act.

Procedure for suits and decrees pending in area withdrawn from Act.

4. When any village or area is withdrawn from the operation of this Act, all suits pending in a village court therein shall be heard and determined, and all decrees passed by such court and remaining unexecuted shall be executed by the civil court which, if the suit were about to be instituted, would have jurisdiction to try it.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such civil court.

Interpretation clause.

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

"Village."

"Village" means in a permanently-settled estate a local area for which at the passing of this Act there is a village munsif's court constituted under Madras Regulation IV of 1816 [1] or for which a village court has been established under this Act; and elsewhere a local area recognized by Government from time to time as a village for purposes of collecting the land revenue.

"Village court."

[2][" Village court" means the court of a village munsif appointed under section 7 or a panchayat court established under section 9.]

"Village munsif."

[2]["Village munsif" means the judge of the court of a village munsif established under this Act and except in sections 7 and 16 includes the president of a panchayat court.]

"District munsif."

[2] [" District Munsif" means the District Munsif within the local limits of whose jurisdiction the village court is situated:

Provided that if the village is not situated within the local limits of the jurisdiction of any District Munsif, the Subordinate Judge, or if there be no Subordinate Judge, the District Judge, within the local limits of whose jurisdiction the village is situated, shall be deemed to be the District Munsif:

Provided further that if in any area the District Munsif does not exercise small cause jurisdiction and a separate Court of Small Causes has been established, the Judge of such Court shall be deemed to be the District Munsif.]

"Prescribed."

[3] [" Prescribed" means prescribed by rule made by the Governor in Council under this Act.]

"Sign."

[4] ["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.]

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[1] Repealed by the Repealing and Amending Act, 1901, s. 3.

[2] The definitions of "Village court," "Village munsif" and "District Munsif" were substituted by Madras Act II of 1920, s. 4.

[3] The definition of "Prescribed" was inserted by Madras Act II of 1920, s. 4.

[4] The definition of "sign" was inserted by *ibid.*

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE COURTS.

Establishment of village courts.

6. The Governor in Council may from time to time by order to be notified in the District Gazette—

(1) group two or more villages and establish one village court for them in lieu of the several village courts previously existing therein ;

(2) constitute divisions in any village, and establish a separate village court for each of such divisions in lieu of the village court previously existing in such village ;

(3) establish a new village court for any specified area.

[* * * *].[7]

Appointment of village munsif.

7. [2] [In villages where there are no panchayat courts] village munsifs shall be appointed by the Collector [3] [in the manner prescribed] provided that no person not residing within the village shall be eligible for that office.

Suspension or removal of village munsif.

8. The Collector of the district may suspend or remove a village munsif [4] [or a member of a panchayat court] for incapacity, neglect of duty, misconduct or other just and sufficient cause, and shall do so, on a requisition passed by the District Judge for like cause appearing in the judicial proceedings of a [5] [village court].

From every order [of suspension or removal] an appeal may be made within three months to the Board of Revenue, if the order was passed by the Collector without orders from the District Judge, or to the High Court if passed upon such orders. The decision of the Board of Revenue or High Court as the case may be, on all such appeals shall be final.

Constitution of panchayat courts.

[7] [**9.** (1) The Governor in Council may, by order notified in the District Gazette, constitute a panchayat court, as hereinafter provided, for any village, group of villages or part of a village ; and thereupon no court of a village munsif appointed under section 7 shall exercise jurisdiction under this Act in any part of such area.

(2) For every court so established the Collector shall determine the number of members, provided that such number shall not be less than five nor more than twelve.

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[1] Sentence repealed by Madras Act II of 1920 s. 6 is omitted.

[2] These words were inserted by Madras Act II of 1920, s. 7.

[3] These words were substituted by *ibid.*

[4] These words were inserted by Madras Act II of 1920, s. 8 (1).

[5] The words "Village Court" were substituted for the words "Village Munsif" by *ibid.*

[6] These words were substituted by Madras Act II of 1920, s. 8 (2).

[7] This section was substituted by Madras Act II of 1920, s. 9.

(3) Subject to such rules as may be made by the Governor in Council, the members of the panchayat court shall be appointed by election.

[1](3-A) Notwithstanding anything contained in sub-sections (2) and (3), the Collector may in his discretion appoint not more than two members to the panchayat court by nomination from any one of more of the communities which are in a minority in the area for which the court is established (for example, Muslims, Indian Christians and Depressed or backward classes) and which communities are not already represented on the court. Any member or members so appointed shall be in addition to the strength of the court as determined under sub-section (2).

Term of members.

(4) Subject to such rules as may be made by the Governor in Council a member of a panchayat court shall hold office for a term of three years.

Election of president.

(5) A panchayat court shall elect one of its members to be its president according to the rules prescribed.

In the absence of the president the members present and constituting the court shall elect from among themselves a president for the purposes of that sitting.

Quorum.

(6) Three members of a panchayat court shall constitute a quorum, and the decision of the majority present shall be the decision of the court.

Provided that in the case of equality of votes the president shall have a casting vote.

Local Government's power to disestablish panchayat courts.

(7) The Governor in Council may, by order notified in the District Gazette, disestablish any panchayat court.]

Village karnam to assist munsif in keeping register of suits and record of proceedings.

10. The village munsif shall keep a register of suits preferred to the village court and shall write the proceedings of the court and it shall be the duty of the village karnam, if so required, to assist in keeping such register and in writing the proceedings of the court.

Village servant to serve summonses, etc.

11. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Act and to act under the orders of the village munsif in seizing, selling and delivering movable properties attached under this Act.

Collector may appoint any person in lieu of, or in addition to, village karnam and village servant.

12. It shall be competent to the Collector of the district, subject to the control of the Governor in Council, to appoint any person in lieu of, or in addition to, the village karnam, or the village servant mentioned in section 11 to perform the duties prescribed by sections 10 and 11 respectively.

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1 Sub-section (3-A) of section 9 was inserted by section 2 of the Madras Village Courts (Amendment) Act, 1935, Madras Act XV of 1935).

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

Cognizance of suits by village courts.

13. The following are the suits which shall be cognizable by village courts (namely)—claims for money due on contract, or for personal property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of [1][rupees fifty] whether on balance of account or otherwise.

Proviso.

Provided that no action shall be brought in any such court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for rent for land unless such rent be due upon a written contract signed by the defendant ;

(4) by or against Government or public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

Jurisdiction up to Rs. 200 with consent.

14. With the written consent of both parties executed before the court, a village court may hear and determine suits of the nature described in section 13, the amount or value of which shall not exceed Rs. 200.

Court in which suit to be instituted.

15. Subject to the provisions contained in section 16, every suit brought under this Act shall be instituted in the [2] [village court] within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside, or carry on business, or personally work for gain.

Suit in which village munsif is personally interested.

[3] [**16.** (1)] No village munsif shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit. Every such suit or proceeding may be instituted in the [4] [village court] of any village immediately adjoining.

Suit in which a member is personally interested.

[5] [(2) When any member of a panchayat court is a party to, or personally interested in, any suit or proceeding before such court, he shall withdraw from the court during the hearing of such suit or proceeding and shall take no part in its determination.]

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[1] The words "rupees fifty" was substituted for the words "rupees twenty" by Madras Act II of 1920, s. 10.

[2] These words were substituted by *ibid* s. 11.

[3] Original section 16 was numbered as sub-section (1) by *ibid* s 12.

[4] These words were substituted for the words "court of the munsif" by *ibid.*, s. 12.

[5] This sub-section was inserted by *ibid.*

Res judicata.

17. No village court shall try any suit brought on a cause of action, which has been heard and determined by a court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

18. Every suit instituted in a village court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such court.

Relinquishment of part of claim.

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall be precluded from bringing a fresh suit for or in respect of the portion so omitted or relinquished.

Incidental determination of matters not cognizable by village courts.

19. If in the decision of a suit cognizable by a village court [1][* *], it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a village court, it shall be competent to the village court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

Limitation.

20. The provisions of the Indian Limitation Act, 1877 [2] shall apply to suits and applications under this Act.

[* * * * * * * * *] [3]

Suit triable by a village court.

[4][**20-A.** (1) If a suit which is triable by a village court is instituted in the court of a District Munsif, he may, unless sufficient reasons exist to the contrary, transfer it to the village court.

Cost of suits tried by District Munsif.

(2) Where a District Munsif tries a suit which is triable by a village court and is of opinion that the suit ought to have been instituted in the village court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs as between pleader and client.]

Transfer of suits.

[5][**21.** (1)] The District Munsif may, on the application of any of the parties, withdraw any suit from a village court and try the suit himself, as if it had been instituted in his court,

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[1] The words "under sections 13 and 15" were repealed by Madras Act II of 1920, s. 13.

[2] *See* now the Indian Limitation Act, 1908.

[3] The proviso was omitted by Madras Act II of 1920, s. 14.

[4] This section was inserted by Madras Act II of 1920, s. 15.

[5] Original section **21** was numbered as sub-section (1) and sub-section (2) was inserted by Madras Act II of 1920, s. 16.

or transfer it for trial to any other village court within the local limits of his jurisdiction. Provided that any party applying to have a suit, withdrawn from a village court and tried by the District Munsif shall, before any such order of transfer is made, pay the amount of the fees payable under the Court Fees Act, 1870, in respect thereof.

Stay of proceedings by District Munsif.

[1][(2) Pending disposal of any application under sub-section (1) the District Munsif may order a stay of proceedings in the village court.]

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS AND CONSEQUENCES OF NON-APPEARANCE.

Suit to be commenced by plaint.

22. Every suit under this Act shall be instituted by presenting a plaint to the village munsif together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Particulars to be contained in plaint.

23. The plaint shall be written in the language of the village and signed by the plaintiff, or, in his absence, by an agent duly authorized by him, and it shall contain the following particulars :—

(*a*) The name, description and residence of the plaintiff and defendant.

(*b*) A concise statement of the cause of action and when it arose.

(*c*) The relief prayed for, and the total amount or value of the claim.

Appearance in person or by agent.

24. [2][No legal practitioner, whether qualified or unqualified, shall be allowed to appear before a village court on behalf of any party to a suit or proceeding but any party may authorize a servant, gumasta, partner, relation or friend to appear and plead for him : Provided that] it shall be competent to the village munsif, whenever he thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit ; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

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1 Original section 21 was numbered as sub-section (1) and sub-section (2) was inserted by Madras Act II of 1920, s. 16.

2 These words were substituted by Madras Act II of 1920, s. 17.

Summons to defendant how served.

25. When the plaint has been duly presented, the village munsif shall cause the same to be registered, and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally [1] [and his signature taken thereon] and a copy thereof delivered to him by the village servant usually employed in carrying messages, or by any other person appointed by the Collector under section 12.

Mode of service when defendant evades service.

26. If the village munsif is satisfied that the defendant is evading service of the summons, [2] [or has refused to affix his signature to the summons], the village munsif may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides.

Mode of service upon defendant beyond local jurisdiction of court.

27. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the village court, it shall be forwarded to the District Munsif, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the village court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

28. If a defendant does not appear in person or by agent on the day fixed, and it be proved that the summons was duly served, the village court may proceed *ex parte*.

If it is not proved that the summons was duly served, the village munsif shall issue a fresh summons.

Defendant can claim two days' notice of suit.

Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to defendant.

Process to be served at expense of party issuing.

29. Every summons served under this Act otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued [3] [* * *].

Procedure where plaintiff does not appear and defendant does not admit claim or where summons not served through plaintiff's default.

30. If on the day fixed for the defendant to appear—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the village court otherwise directs.

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1 These words were inserted by Madras Act II of 1920, s. 18.

2 These words were inserted by Madras Act II of 1920, s. 19.

3 Certain words were repealed by Madras Act II of 1920, s. 20.

31. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the village court shall pass judgment against defendant in accordance with such admission, provided that when only a part of the claim is admitted, the court may adjourn the hearing to a future day. Procedure where plaintiff does not appear and defendant admits claim.

32. Whenever a suit is dismissed under clause (1) or clause (3) of section 30, the plaintiff may [1] [subject to the law of limitation] bring a fresh suit; and if within thirty days from the date of an order under clause (2) of section 30 dismissing the suit, or of a decree passed for only a part of the claim under section 31, the plaintiff satisfies the village court that he was prevented by any sufficient cause from appearing, the court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit. Setting aside order under section 30 or 31 on cause shown.

33. Any defendant against whom a decree has been passed *ex parte* may, within thirty days from the date of executing any process for its enforcement, apply to the village court to set it aside; and if satisfied that the summons or notice was not duly served, or that the defendant was prevented by any sufficient cause from appearing, the court shall set aside the decree and shall appoint a day for proceeding with the suit. Setting aside *ex parte* decree against defendant.

34. No decree shall be set aside on any application under section 32 or section 33 unless notice has been served on the opposite party. No decree to be set aside without notice to opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits and of the Summoning and Examination of Witnesses.

35. When the defendant appears, the court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim or if the suit be compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the court shall pass a decree in accordance therewith. If he does not admit the claim, he shall be required to state his objections either orally or in writing, and the court may, if it thinks fit, adjourn the case to enable him to file a written statement. Procedure on appearance of both parties.

36. If the plaintiff wishes to withdraw a suit, he shall signify the same in writing to the court, which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action. Withdrawal of suit.

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[1] These words were inserted by Madras Act II of 1920, s. 21.

When suit may be settled by oath.

37. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the court shall give judgment according to such oath.

Set-off.

38. The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a village court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

39. When the defendant's statement has been made, the court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witnesses how served.

40. Any witness residing within the jurisdiction of the village court may be summoned verbally or in writing. Any witness residing within five miles beyond the court's jurisdiction may be summoned in writing, and such summons shall be served through the village munsif within whose jurisdiction he resides. If any witness resides more than five miles beyond the jurisdiction, the court may call on the parties to frame written interrogatories and shall forward such interrogatories, with a letter, to the village munsif within whose jurisdiction the witness resides, and such munsif shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the court in which the suit is pending.

Interrogatories when to issue.

Summons to appear and give evidence or produce document.

41. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Exemption of certain women and other persons from personal appearance.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the village court shall examine such person at his or her residence.

Examination of witnesses.

43. Witnesses shall be examined on oath or solemn affirmation, but it shall not be necessary for a village court to take down depositions of witnesses in writing.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the village court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the village court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 30 and 31, or make such other order as it thinks fit.

CHAPTER VI.

OF THE DECREE AND ITS EXECUTION.

On conclusion of hearing, court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the village court shall pass such decree as may seem just, equitable, and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the village munsif. When the suit has been heard by a [1] [panchayat court], the decree shall be signed by the members of such [1] [panchayat court] concurring therewith. [2] [A copy of the decree shall then be delivered to each party in the prescribed manner.]

Decree may award interest or order payment by instalments.

47. In suits for money the village court may decree interest on the sum decreed not exceeding twelve per cent per annum from date of suit till date of payment.

When a village court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by which decree may be executed.

48. The decree shall be executed by the village court which passed it or by a village court or District Munsif to whom it is sent for execution under the provisions hereinafter contained.

Decree for specific movable how executed.

49. If the decree be for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property be not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of money under a decree or other adjustment to be made or recorded in presence of munsif.

50. All money payable under a decree passed by a village court shall be paid to the decree-holder, or his agent specially authorized in writing, in the presence of the village munsif whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such village munsif.

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[1] The words "panchayat court" were substituted for the word "bench by Madras Act II of 1920, s. 5.

[2] These words were substituted by Madras Act II of 1920, s. 22.

Such payment or adjustment shall be endorsed by the village munsif on the decree, and recorded in the register of suits mentioned in section 10.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognized unless it has been made or recorded in the manner prescribed by this section, or in the court of the District Munsif.

Judgment-debtor not to be arrested, nor immovable property attached.

51. Subject to the provisions of sections 66 and 67, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a village court.

Attachment of movable property.

52. On the application of the decree-holder, the village court shall attach any movable property within his jurisdiction belonging to the judgment-debtor pointed out by the decree-holder, to the value of the sum payable under the decree, [1] [provided that no property shall be liable to such attachment which is exempt from attachment under section 60 of the Code of Civil Procedure, 1908]. V of 1908.

How made if in possession of judgment-debtor.

53. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the village munsif shall provide for its safe custody. It may be left in the custody of the judgment-debtor, upon sufficient security being given in writing for its production when required. On default the decree may be executed against the surety to the value of the property not produced.

How made if not in possession of judgment-debtor.

54. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof until the further order of the village court. Nothing in this section shall be held to authorize a village court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

[1] This proviso was substituted for the original proviso by Madras Act II of 1920, s. 23.

Investigation of claims to attached property.

57. If any claim be preferred to property attached in execution of a decree, the village court shall investigate the claim and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Property to be sold not less than fifteen days after attachment, and sale to be proclaimed.

58. As soon as possible after attachment, the village court shall fix a day not less than fifteen days from the date of attachment, for the sale of the property attached, and shall cause written proclamation of the intended sale to be fixed outside his court, and such sale shall be further proclaimed by beat of drum previous thereto :

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case the court shall hold the sale-proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the village munsif, and sold to the highest bidder. The price shall be paid without delay, and in default the property shall again be put up to sale.

On payment of the purchase money, the court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Power to adjourn sale.

60. Any sale advertised under this Act may at the discretion of the court be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 58.

Village Munsif and other officers not to bid for or buy property sold.

61. No village munsif or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

Stoppage of sale on tender of debt and costs.

62. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs attending the sale are tendered to the village munsif.

Division of proceeds of sale.

63. Out of moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

In other cases how property delivered to purchaser.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transmission of decree and execution of transmitted decree.

[1] [**66.** (1) Any decree passed by a village court may, on the application of the decree-holder, be transmitted for execution to the District Munsif, who may

(*a*) execute the decree as if it were a decree passed by himself; or

(*b*) transmit it for execution to the court of any other village within his jurisdiction in which the defendant is represented to have movable property; or

(*c*) transmit it to the court of any other District Munsif within whose jurisdiction the defendant is represented to reside or to have property.

(2) The District Munsif to whom a decree has been transmitted under clause (*c*) of sub-section (1) may execute the decree as of it were a decree passed by himself or transmit it for execution to the court of any village within his jurisdiction in which the defendant is represented to have movable property.

(3) The village court to which the decree is transmitted under clause (*b*) of sub-section (1) or sub-section (2) shall proceed as if the decree was passed by itself.]

District Munsif may withdraw execution of any decree.

67. It shall be competent to the District Munsif to withdraw the execution of any decree from any village court, and to execute it himself, as if it were a decree passed by himself.

Orders of the District Munsif relating to attachment or sale of movable property not appealable.

[2] [**67-A.** Notwithstanding anything contained in the Code of Civil Procedure, 1908, no appeal shall lie from any order made by a District Munsif relating to the attachment or sale of movable property in execution of any decree passed by a village court.]

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[1] Section 66 was substituted by section 2 of the Madras Village Courts (Amendment) Act, 1929 (Madras Act XV of 1929).

[2] Section 67-A was inserted by section 3 *ibid.*

CHAPTER VII.

MISCELLANEOUS.

If on death of party to suit, application is made, legal representative of deceased may be entered on record.

68. If a plaintiff or a defendant die before decree is passed in the suit, the name of his legal representative may be entered in his place on the record, on the application of the opposite party or of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

If no application made, suit to be dismissed.

69. If no such application be made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them die, and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

If decree-holder die, his legal representative may be substituted.

71. If a decree-holder die before the decree has been fully executed, his legal representative may apply to the village court to substitute his name as the decree-holder in the room of the deceased, and if the court be satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment-debtor die, decree may be executed against his legal representative.

72. If a judgment-debtor die before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of assets derived from him and not duly accounted for.

Revision by District Munsif of village courts proceedings.

73. The District Munsif may, on a petition being presented within sixty days from the date of any decree or order of a village court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground—

of corruption, gross partiality or misconduct of the village court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust [1][* * *]

and may pass such other decree or order as he thinks fit; provided that no decree or order of a village court shall be set

[1] The words "or contrary to law" were omitted by Madras Act II of 1920, s. 24.

aside without notice to the opposite party. Pending disposal of any such petition, the District Munsif may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the District Munsif if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a village court shall be final.

District Munsif may, and in certain cases shall, report to District Judge.

74. Whenever under section 73 the District Munsif sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality, or misconduct.

Power of High Court to prescribe forms and of District Judge and District Munsif to inspect records.

75. The High Court may, from time to time, prescribe forms for use in village courts and the returns which they shall be bound to submit. The District Judge or the District Munsif may at any time call for and inspect the registers and records of village courts.

[1][CHAPTER VIII.]

Criminal Jurisdiction.

Local Government may empower panchayat courts to take cognizance of and try certain offences.

76. (1) The Governor in Council may, by order notified in the District Gazette, empower a panchayat court to take cognizance of and try all or any of the following offences when committed within the local limits of its jurisdiction :—

(*a*) Offences punishable under sections 160, 277, 283, 290, 323, 334, 352, 358, 504 and 510 of the Indian Penal Code. XLV of 1860.

(*b*) Offences punishable under section 379 of the Indian Penal Code in respect of property not exceeding ten rupees in value, when the offender has not been previously convicted of theft. XLV of 1860.

(*c*) Offences punishable under section 426 of the Indian Penal Code when the loss or damage caused thereby does not exceed ten rupees. XLV of 1860.

(*d*) Offences punishable under section 3, clauses (9), (11) and (12), of the Towns Nuisances Act, 1889. Madras Act III of 1889.

(*e*) Any other specified offence under the Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months only or with both. XLV of 1860.

[1] Chapter VIII was inserted by Madras Act II of 1920, s. 26.

Provided that in respect of offences mentioned in clauses (*b*) and (*c*) the Governor in Council may extend the jurisdiction of a panchayat court to cases where the value of the property stolen or the loss or damage caused does not exceed twenty rupees.

Explanation.—The offences mentioned in this section include abetments of such offences.

Imposition and limit of fine.

(2) If a panchayat court finds an accused person guilty of any of the above offences, it may impose on him a fine not exceeding Rs. 15 :

Provided that in case of conviction of an offence under clauses (*b*) and (*c*) of sub-section (1) the fine may extend to twice the value of the property stolen or the amount of the damage caused.

Payment of fine and punishment for default.

(3) The panchayat court may allow a reasonable time for the payment of the fine, or may order that the fine shall be paid by instalments; but if the fine is not paid as directed, the court shall recover it in the same manner as if it were due under a decree under this Act. If in any case it appears to the court that the fine imposed cannot be recovered as aforesaid, it shall submit the case to the subdivisional magistrate, who may award such term of imprisonment as is authorized by law in case of such default ; provided that the term so awarded shall in no case exceed one week.

Procedure in criminal trials.

(4) Subject to such rules as the Governor in Council may make in this behalf, the procedure to be adopted by panchayat courts in criminal trials shall be as follows :—

The court need not record the evidence of the witnesses or frame a formal charge but it shall enter in the prescribed form the following particulars :—

(*a*) The serial number ;

(*b*) The date of the commission of the offence ;

(*c*) The date of the report or complaint ;

(*d*) The names, parentage and residences of the complainant, the accused and the witnesses examined;

(*e*) The offence complained of and the offence (if any) proved, and in cases coming under clauses (*b*) and (*c*) of sub-section (1) the value of the property stolen or the amount of the loss or damage caused ;

(*f*) The plea of the accused and his statement, if any;

(*g*) The finding and, in the case of a conviction, a brief statement of the reasons therefor ;

(*h*) The amount of fine imposed and

(*i*) The date on which the proceedings terminated :

No legal practitioner to appear for complainant or accused.

(5) Except in accordance with rules framed by the Governor in Council no legal practitioner, whether qualified, or unqualified, shall be allowed to appear either for the complainant or for the accused.

When cases may be transferred from panchayat court.

(6) If at any stage of the proceedings it appears to the court that the case is one which ought to be tried by a magistrate or if at the close of the trial the court is of opinion that the accused is guilty and that he ought to receive a punishment different in kind from, or more severe than, that which it is empowered to inflict, it shall submit the case to the Subdivisional Magistrate, who may transfer the case to his own court or to the court of a magistrate subordinate to him.

(7) The District or Subdivisional Magistrate may, whenever he considers it necessary in the interests of justice, transfer any case pending before a panchayat court to his own court or to the court of any magistrate subordinate to himself or to any other panchayat court within his jurisdiction.

Appeal.

(8) No appeal shall lie against any sentence or order passed by a panchayat court under this section, but the District Magistrate or Subdivisional Magistrate may set aside any conviction on the ground of corruption, gross partiality or misconduct on the part of the court, or on the ground that there has been a gross miscarriage of justice;

Transfer of cases cognizable by panchayat courts.

(9) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a magistrate taking cognizance upon a complaint or police report of an offence cognizable by a panchayat court may, unless sufficient reasons exist to the contrary, transfer the case to the panchayat court having jurisdiction.

Applicability of section 403 of the Code of Criminal Procedure to court.

77. (1) The provisions of section 403 of the Code of Criminal Procedure, 1898, shall apply to a village court.

(2) Save as provided in sub-section (1) nothing contained in the said Code shall apply to a village court.

[1][CHAPTER IX.]

POWER TO MAKE RULES.

78. (1) The Governor in Council may make rules to carry out all or any of the purposes of the Act.

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

(*a*) regulate the appointments of village munsifs under section 7,

[1] Chapter IX was inserted by Madras Act II of 1920, s. 26.

(*b*) regulate the appointments or elections of presidents and other members of the panchayat courts and prescribe their qualifications and disqualifications,

(*c*) regulate the meetings and proceedings of panchayat courts and the attendance of members thereof,

(*d*) prescribe the manner in which panchayat courts may take cognizance of offences and the procedure to be followed by them in the trial of offences,

(*e*) provide for the presentation, withdrawal and dismissal of complaints and the compounding of offences and prescribe the persons who may conduct a prosecution or represent the accused,

(*f*) provide for the summoning and attendance of the accused and for the summoning and examination of witnesses in criminal cases,

(*g*) prescribe as to criminal cases the forms of all registers, returns and processes, the manner in which such registers shall be maintained, the dates on which such returns shall be made and the officers to whom they shall be sent,

(*h*) provide for the service of process, the execution of decrees and the recovery of fines,

(*i*) provide for the receipt and custody of all documents and records by or on behalf of panchayat courts and for the grant of copies of decrees and other records, and

(*j*) provide for the levy of fees for the service of process, the execution of decrees and the grant of copies.

(3) All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act.

[* * * *][1]

THE TOWNS NUISANCES ACT, 1889.

TABLE OF CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and local extent.
2. [Repealed.]
3. Penalty for certain offences in public streets.
   (1) Rash or negligent driving.
   (2) Causing obstruction by negligence in driving cattle.

[1] The schedule was repealed by section 3 (2) of the Repealing and Amending Act 1901.

(3) Driving, etc., otherwise than on near or left side of the road.
(4) Leaving vehicle or cattle without due control.
(5) Obstructing thoroughfare.
(6) Exposing goods so as to cause obstruction.
(7) Letting loose horses or ferocious dogs.
(8) Begging.
(9) Depositing rubbish, stones, etc.
(10) [Repealed.]
(11) Committing nuisances in streets.
(12) Drunken or riotous or indecent behaviour.
4. Neglecting to fence in well, tank, etc.
Causing offensive matter to run from house, etc.
5. Penalty for cruelty to animals.
6. [Repealed.]
7. [Repealed.]
8. Police may arrest without warrant on view of offence.
9. [Repealed.]
10. Destruction of stray dogs.
11. Act to form part of General Police Act.
Schedule [Repealed.]

MADRAS ACT III OF 1889.[1]

[THE TOWNS NUISANCES ACT, 1889].[2]

[16*th November* 1889 ; 23*rd 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 [3] 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,[4] or other Act of the same nature for the time being in force ; and the Governor in Council may

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 12th February 1889, p. 3 ; for Report of the Select Committee, *see ibid*, dated 8th October 1889, p. 1 ; for Proceedings in Council *see ibid*, dated 26th March 1889, p. 2, *ibid*, dated 12th November 1889, p. 12.

[2] The Act came into force on 1st July 1891.

[3] The Madras District Police Act, 1859.

[4] This Act has been repealed and re-enacted in the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

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.

2. [*Enactments repealed.*] *Repealed by the Repealing and Amending Act*, 1901 (*XI of* 1901).

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 :— Penalty for certain offences in public street.

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

(2) Whoever by negligence or ill-usuage in driving cattle causes any mischief or obstruction by such cattle. Causing obstruction by negligence in driving cattle.

(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. Driving, etc., otherwise than on near or left side of the road.

(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. Leaving vehicle or cattle without due control.

(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. Obstructing thoroughfare.

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

(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. Letting loose horses or ferocious dogs.

(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. Begging.

Depositing rubbish, stones, etc.

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

[1](10) [*Repealed.*]

Committing nuisances 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 seven years of age, omits to prevent such child from committing a nuisance as aforesaid.

Drunken or riotous or indecent behaviour.

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

[2][* * * *]

Neglecting to fence in well tank, etc.

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

Causing offensive matter to run from house, etc.

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

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

Penalty for cruelty to animals.

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.

[3][**6.** *Repealed.*]

[3][**7.** *Repealed.*]

Police may arrest without warrant on view of offence.

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

[3][**9.** *Repealed.*]

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

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[1] Clause (10) was repealed by section 14 of the Madras Gaming Act, 1930 (Madras Act III of 1930).

[2] This paragraph was repealed by *ibid.*

[3] These sections were repealed by *ibid.*

destroyed, and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the District or Subdivisional Magistrate may from time to time direct.

11. Sections 3 and 4 of this Act shall be read with, and form part of, Act XXIV of 1859.[1] Act to form part of General Police Act.

[* * *] [2]

THE MADRAS SALT ACT, 1889.

CONTENTS.

CHAPTER I.

PRELIMINARY.

PREAMBLE.

SECTIONS.

1. Short title.
   Extent.
   Proviso.
2. [*Repealed.*]
3. Interpretation-clause.

CHAPTER II.

THE APPOINTMENT OF OFFICERS.

4. Appointment of Commissioner.
5. Appointment of Deputy and Assistant Commissioners and Inspectors.
6. Subordinate officers.
7. Delegation of powers by the Commissioner.

CHAPTER III.

OF THE MANUFACTURE OF SALT.

PART I.—*General.*

8. Manufacture without license illegal.
9. Commissioner may grant, alter or cancel licenses.
10. Two descriptions of licenses.
11. Transfer and relinquishment of licenses.
12. Licensee to be taken to be owner of license and salt-works.

---

1 The Madras District Police Act, 1859.

2 The schedule appended to this Act was repealed by the Repealing and Amending Act, 1901 (XI of 1901). *See* the third schedule, Part III.

SECTIONS.

13. Power to establish and close factories.
14. Power to substitute either system of manufacture for the other.
Proviso.
15 Notice to be given of intention to substitute.
Power to re-call licenses and issue new ones.
16. Commissioner to dispose of salt-works for which licenses have been relinquished or cancelled.
Procedure where salt-works are retained within the factory.
Procedure where they are not retained.
Proviso.
17. Treatment of works pending disposal.
18. Rates of compensation.
19. Power to destroy salt.
20. Power to erect guard-sheds.

PART II.—*Of the Manufacture of Salt for Sale to Government.*

21. To what factories provisions of Part to apply.
22. Commissioner to determine quantity of salt to be manufactured, and to pay for all salt manufactured.
23. Obligations and duties of licensees.
24. Power to enforce performance of obligations by licensees.
25. Penalty for want of due diligence or default by licensee.

PART III.—*Of the Manufacture of Salt for general sale.*

26. To what factories provisions of Part to apply.
27. Power to cancel license on failure to manufacture.
28. Removal of salt from closed factory.
29. Salt to be protected, re-heaped and secured, and storage-works constructed.
30. Refuse salt to be stored or destroyed.
31. Licensees to construct and maintain in good order roads, channels, reservoirs, etc.
32. When works may be undertaken by Salt Department.
33. Applicants for permit to remove salt legally bound to state price.
34. Liability of Government for loss or damage to salt in a factory.

CHAPTER IV.

MANUFACTURE AND REFINEMENT OF SALTPETRE.

35. Manufacture of saltpetre without license illegal.
36. Commissioner may grant licenses.
37. Two kinds of licenses.
38. Fees for licenses.
39. Conditions of license.
40. Disposal of materials on cancellation or suspension of license.
41. Payment of duty on salt on cancellation or suspension of license.
42. Licensee to fence premises and store materials.

SECTIONS.

CHAPTER V.

REMOVAL OF SALT AND PAYMENT OF DUTY AND CHARGES.

43. Salt not removable from factory except under permit and on payment of duty and other charges.
44. Weighment of salt removed.
45. Etsablishment of preventive stations.

CHAPTER VI.

OF THE POWERS OF PUBLIC OFFICERS FOR THE DETECTION AND PUNISHMENT OF OFFENCES AGAINST THE SALT LAW.

46. Magistrate may issue search-warrant on information.
47. When officer of Salt or other department may search without warrant.

Procedure to be observed.

48. Search by head of village.
49. When offenders may be arrested and anything liable to confiscation seized without warrant.
50. Refusal to give name and residence.
51. Procedure in case of search.
52. Report of search or seizure.
53. Arrested person how to be dealt with.
54. Procedure by Police station-officer.
55. Procedure by inspector.
56. Bond and sureties of accused.
57. Procedure on breach of bond for appearance.
58. Inspector may summon suspected persons.
59. Salt-officer may summon witnesses.
60. Terms of summons.
61. Examination of witnesses summoned by Salt-officers.
62. Examination of witnesses whose attendance is dispensed with.
63. Person summoned merely to produce document.
64. Report of Inspector to Magistrate.
65. Powers of Inspector to cause attendance of witnesses.
66. Accused not to be detained in custody more than twenty-four hours.
67. Custody of things seized under the Act.
68. Officers of Salt and other departments to assist each other.
69. Prevention of, and information regarding, offences.
70. Zamindars and others to report manufacture of contraband salt.
71. Provisions regarding confiscation of things liable thereto.
72. Disposal of things seized.
73. Power to cancel or suspend licenses.

SECTIONS

CHAPTER VII.

PENALTIES.

74. Penalties for removal of salt without or in excess or permits etc.
75. Act or omission in contravention of section 44 or of any rule under clauses (*c*), (*e*) and (*g*) of section 85 or of any permit.
76. Vexatious abuse of power by officer of Salt or other department or by head of village.
77. Vexatious delay by officer.
78. Salt-officer refusing to perform duties or using violence to person in custody.
79. What things liable to confiscation.

CHAPTER VIII.

GENERAL PROVISIONS.

80. Publications of rules and notifications.
81. Mode of conferring powers, etc.
82. Service of summons, etc.
83. Presumption as to possession.
84. Recovery of sums due to Government.
85. Power to make rules.
85-A. Power of the Collector of salt-revenue to make rules.
86. Appeals against orders.
87. Limitation.

SCHEDULE.

[*Repealed.*]

MADRAS ACT NO. IV OF 1889[1].

[THE MADRAS SALT ACT, 1889.]

[21*st November* 1889 ; 30*th 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 :—

[1] For Statement of Objects and Reasons, *see For t St. George Gazette* Supplement, dated 24th April, 1888, p. 19 ; for Report of the Select Committee *see ibid*, Supplement, dated 16th April, 1889, p. 1 ; for Proceedings in Council *see ibid* Supplement, dated 13th November, 1888, p. 18, *ibid*, dated 12th November, 1889, p. 2.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Madras Salt Act, 1889. **Short title.**

It extends to the whole of the Presidency of Fort St. George: **Extent.**

Provided that the [1][Governor-General in Council] may, from time to time, by notification exempt [2] any local area from the operation of all or any of the provisions of this Act other than this section and section 2. **Proviso.**

2. [*Enactments repealed*]. *Rep. by the Repealing and Amending Act*, 1901 (*XI of* 1901).

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

(*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-revenue."**

(*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: **"Salt."**

(*c*) "saline substance" means any substance naturally containing salt: **"Saline substance."**

(*d*) "salt-earth" means earth containing salt: **"Salt-earth."**

(*e*) "saltpetre" means nitrate of potash, and in any local areas which may be defined in this behalf from time to time by the [3][Central Board of Revenue] by notification, shall include any or all kinds of carbonates, nitrates or sulphates of soda and potash specified in such notification: **'Saltpetre.'**

(*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: **"Manufacture."**

(*g*) "circle" means a local area from time to time constituted as such by the [3][Central Board of Revenue] by notification: **"Circle."**

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1 The words "Governor-General in Council" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 For notification exempting the Scheduled Districts of Ganjam, Vizagapatam and Godavari from the operations of the Act, from 1st August 1890, *see Fort St. George Gazette*, 1890, Pt. I, p. 445.

3 The words "Central Board of Revenue" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

"Inspector." (*h*) "Inspector" means an officer in charge of a circle, and includes any officer who may be specially invested by the [1][Central Board of Revenue] 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 [2][Collector of salt-revenue] ; but does not include a warehouse appointed or licensed under the Sea Customs Act, 1878. VIII of 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 [3][Central Board of Revenue] to be contraband salt, nor shall it include sea-water :

"Central Board of Revenue." [4][(*kk*) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924.] IV of 1924.

Collector of salt-revenue. (*l*) "Collector of salt-revenue" [5] means the [6] [Collector of salt-revenue] appointed by the [7][Governor-General in Council] under section 4, clause (*a*) :

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1 The words "the Central Board of Revenue" were substituted for the word "Government" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

3 The words "Central Board of Revenue" were substituted for the words "Governor in Council" by *ibid.*

4 Clause (*kk*) was inserted by *ibid.*

5 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

6 The words "Collector of salt-revenue" were substituted for the word "officer" by *ibid.*

7 The words "Governor-General in Council" were substituted for the words "Governor in Council" by *ibid.*

(*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. "Licensee."

(*n*) "Magistrate" means a Magistrate appointed under the Code of Criminal Procedure [1]: "Magistrate."

X of 1882.

(*o*) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code: "Imprisonment."

XLV of 1860.

"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.

[2][**4.** Notwithstanding anything contained in Regulations I and II of 1803 the Governor-General in Council may by notification—

Appointment of Collector of salt-revenue.

(*a*) appoint, after consideration of any recommendation made by the Governor in Council in this behalf, a Collector of Salt-revenue who shall subject to the orders of the Central Board of Revenue, control the administration of the Salt Department and the collection of the salt-revenue and

(*b*) withdraw from the Board of Revenue or the Collector of Land-revenue all or any of their or his powers in respect of the salt-revenue.]

Appointment of Deputy and Assistant Commissioners and Inspectors.

5. The [3][Central Board of Revenue] may from time to time, appoint officers of the Salt Department subordinate to the [4][Collector of salt-revenue], 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.

The [3][Central Board of Revenue] may delegate any of [5][its] powers under this section to the [4][Collector of salt-revenue].

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1 *See* now Act V of 1898.

2 Section 4 was substituted by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

3 The words "Central Board of Revenue" were substituted for the words "Governor-in-Council" by *ibid.*

4 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

5 The word "its" was substituted for the word "his" by *ibid.*

Subordinate officers.

6. The appointment of all other subordinate officers of the Salt Department shall, under such orders as the [1][Governor-General in Council] may, from time to time, prescribe, vest in the [2][Collector of salt-revenue] who may fine suspend, reduce, transfer or dismiss any subordinate officer so appointed.

Delegation of powers by the Collector of salt-revenue.

7. The [Collector of salt-revenue] may, from time to time, with the sanction of the [3][Central Board of Revenue], by notification, authorize 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.

CHAPTER III.

OF THE MANUFACTURE OF SALT.

PART I.—*General.*

Manufacture without license illegal.

8. No person, not being a public servant manufacturing on behalf of Government, shall manufacture salt unless duly licensed as hereinafter provided.

Collector of salt revenue may grant, alter or cancel licenses.

9. The [2][Collector of salt-revenue] 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 [1][Governor-General in Council] may, from time to time, prescribe. The [2][Collector of salt-revenue] 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.

If such new license is not accepted by the licensee, the [2][Collector of salt-revenue] may direct that the previous license shall be cancelled

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.

Two descriptions of licenses.

10. Licenses for the manufacture of salt may be either—

(i) for the manufacture of salt for sale to Government, or

(ii) for the manufacture of salt for general sale.

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1 The words "Governor-General in Council" were substituted for the words "Governor in Council" by section 2 of the Salt-Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II by *ibid.*

2 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

3 The words "Central Board of Revenu" were substituted for the words "Governor in Council" by *ibid.*

Transfer and relinquishment of licenses.

11. Licenses shall be transferable and may be relinquished : Provided that no transfer or relinquishment shall have any effect against the [1] [Collector of salt-revenue] unless and until it shall have been registered or accepted under such rules as [2][he] may from time to time prescribe.

Licensee to be taken to be owner of license and salt-works.

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 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 [Central Board of Revenue] 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 [3][Central Board of Revenue] 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 [3][Central Board of Revenue] 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 [3][Central Board of Revenue] 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] may declare the existing licenses cancelled.

Power to recall licenses and issue new ones.

Collector of salt-revenue to dispose of salt-works for which licenses have been relinquished or cancelled.

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 [1][Collector of salt-revenue] who shall determine whether the salt-works shall be retained within the salt-factory or not.

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1 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 This word was substituted for the words "the Governor in Council" by Mad. Act VIII of 1914.

3 The words "Central Board of Revenue" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

Procedure where salt-works are retained within the factory.

(*a*) If the [1][Collector of salt-revenue] directs that the salt-works shall be retained within the factory, the proprietary right of other persons therein, if any, shall thereupon vest in [2][His Majesty], and the [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] shall also pay to the late licensee compensation at the rates fixed in section 18.

Procedure where they are not retained.

(*b*) If the [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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.

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 [1][Collector of salt-revenue] 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.

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1 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 The words "His Majesty" were substituted for the words "Governor in Council" by section 2 *ibid.*

18. The compensation payable under section 16 to a licensee shall be at the rate of four annas for every maund of salt in the average quantity annually stored from the salt-works to which the license cancelled or relinquished 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. Rates of compensation.

19. The [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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. To what factories provisions of Part to apply.

22. The [1][Collector of salt-revenue] shall determine the quantity of salt to be manufactured in each year by each licensee. Collector of salt-revenue to determine quantity of salt to be manufactured, and to pay for all salt manufactured.

The [1][Collector of salt-revenue] shall pay licensees for all salt manufactured according to the conditions of their licenses and delivered into store by them, at such rates as [2][he] may, from time to time, prescribe.

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 [1][Collector of salt-revenue] for the factory or for the salt-works of the licensee. They shall also be bound, when called upon by the [1][Collector of salt-revenue], to provide labour and materials for securing salt in store and for executing repairs to the platforms, main channels, roads and Obligations and duties of licensees.

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1 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 This word was substituted for the words "the Governor in Council" by Madras Act VIII of 1914.

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.

Power to enforce performance of obligations by 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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 licensee the amount of any expenditure which the [1][Collector of salt-revenue] may have incurred owing to such refusal or neglect.

Penalty for 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 [1][Collector of salt-revenue] 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.*

To what factories provisions of Part to apply.

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 [1][Collector of salt-revenue] 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

[1] The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

payment of the duty thereon, it shall be forfeited to Government and disposed of as the [1][Collector of salt-revenue] may think fit.

Salt to be protected, re-heaped and secured and storage works constructed.

29. The [1][Collector of salt-revenue] may, by order in writing, require a licensee to protect salt manufactured by him in such manner as the [1][Collector of salt-revenue] shall consider sufficient in any place appointed by the [1][Collector of salt-revenue] for the storage or keeping of salt for the factory or for the salt-works of the licensee, to re-heap 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 [1][Collector of salt-revenue'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 [1][Collector of salt-revenue] may do what is required or may sell or destroy salt so left unprotected or unstored and may recover the cost from the licensee.

Refuse salt to be stored or destroyed.

30. The [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] may cause such salt to be destroyed, and may recover the cost of such destruction from him. The [1][Collector of salt-revenue] shall determine whether any salt is sifted or refuse for the purposes of this Act.

Licensees to construct and maintain in good order roads, channels, reservoirs, etc.

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 [1][Collector of salt-revenue] 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.

When works may be undertaken by Salt Department.

32. In case the licensees shall fail to execute the works specified in the last preceding section, or with the sanction of the [2][Central Board of Revenue] whenever it appears desirable that any such work should be undertaken by the Salt Department, the [1][Collector of salt-revenue] may cause such works to be executed and may recover the cost thereof, in such proportions as may seem fit, from the licensees.

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1 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 The words "Central Board of Revenue" were substituted for the words "Governor in Council" by *ibid.*

Applicants for permit to remove salt legally bound to state price.

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.

Liability of Government for loss or damages to salt in a factory.

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.

CHAPTER IV.

MANUFACTURE AND REFINEMENT OF SALTPETRE.

Manufacture of saltpetre without license illegal.

35. No person, not being a public servant manufacturing on behalf Government, shall manufacture or refine saltpetre unless duly licensed as hereinafter provided.

Collector of salt-revenue may grant licenses.

36. The [1][Collector of salt-revenue] 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 refinemen to fsaltpetre, and the separation and purification of salt in the process of such manufacture and refinement.

Fees for licenses.

38. The [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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 [1][Collector of salt-revenue] may cause them to be destroyed, and may recover the cost from the licensee.

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[1] The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

Payment of duty on salt on cancellation or suspension of license.

41. The [1] [Collector of salt-revenue] 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 [1] [Collector of salt-revenue] 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.

Licensee to fence premises and store materials.

42. The [1] [Collector of salt-revenue] 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 [1][Collector of salt-revenue] 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. [2][(i) Subject to any rules which may be made by the] [4][Governor-General in Council] [3][under section 85 and the] [5][Collector of salt-revenue] [3][under section 85-A, 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 [5][Collector of salt-revenue], and no salt shall be removed from such authorized place of storage, except

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1 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 Section 43 was renumbered as clause (1) of section 43 by section 2 of the Madras Salt (Amendment) Act, 1920 (Madras Act IX of 1920).

3 These words in square brackets were substituted by Mad. Act VIII of 1914.

4 The words "Governor-General in Council" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

5 The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

under a permit and upon payment of duty at the rate fixed by the [1][Governor-General in Council] under the Indian Salt Act, 1882, and of the following charges :— XII of 1882.

A—for every maund of salt sold on account of Government such sum as may be fixed under general or special order of the [1][Governor-General in Council,] or determined by auction-sale, not being less than any minimum fixed under [2][clause (*c*) of section 7] of the Indian Salt Act, 1882 ; XII of 1882.

B—for every maund of salt sold by or on account of a licensee under section 10 (ii) such sum as the [3][Collector of salt-revenue], under such rules as the[1] [Governor-General 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 [4][such percentage as the Central Board of Revenue may fix] on the duty levied on the salt therein sold in preceding official years and as has not been recovered by Government.

[5][(ii) A licensee shall be liable to pay all sums remaining due to Government under any of the heads mentioned in clause (i) B above after all the salt belonging to the licensee has been sold, and the same may be recovered from such licensee in any of the ways prescribed in section 84.]

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1 The words " Governor-General in Council " were substituted for the words " Governor-in-Council " by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

2 The words, letter and figure in square brackets were substituted for the word and figure " section 8 " by *ibid.*

3 The words " Collector of salt-revenue " were substituted for the word " Commissioner " under section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part II.

4 The portion within square brackets was substituted for the words " five percentum " by section 2 of the Madras Salt (Amendment) Act, 1927 (Act VI of 1927).

5 This clause was added by section 2 of the Madras Salt Act (Amendment) Act, 1920 (Madras Act IX of 1920).

Weighment of salt 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 [Collector of salt-revenue][1] 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. Procedure to be observed.

47. [2][When any officer of the Salt or Customs departments empowered in this behalf by the Central Board of Revenue or any officer of the Police, Land-revenue or Abkari Departments empowered in this behalf by the Central Board of Revenue with the approval of the Governor-in-Council] 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

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1 The words "Collector of Salt revenue" were substituted for the word 'Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*See* Schedule, Part I.

The portion within square brackets was substituted by ibid.

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.

Search by head of village.

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.

[1][If the officer making the arrest has been empowered in this behalf by general or special order of the Central Board of Revenue, and sufficient bail be tendered for the appearance of the person arrested before the Inspector, the officer shall admit such person to bail.]

Refusal to give name and residence.

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.

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1 The paragraph within square brackets was added by section 2 of the Madras Salt (Amendment) Act, 1928 (XIX of 1928).

X of 1882.

51. All searches under this Chapter shall be made in accordance with the provisions of the Criminal Procedure Code[1] so far as the same are consistent therewith, and where made by a head of a village shall be reported within twenty-four hours to the Magistrate having jurisdiction. Procedure in case of search.

52. Whenever any search or arrest or seizure is made under sections 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. Report of search or seizure.

53. Whenever any person is arrested under the provisions of this Chapter and has not been admitted to bail under section 47 [or section 49][2] 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. Arrested person 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 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 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 Procedure on breach of bond for appearance.

1 *See* now Act V of 1898.

2 The words and figures within square brackets were inserted by section 3 of the Madras Salt (Amendment) Act, 1928 (XIX of 1928).

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,[1] for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court. X of 1882.

Inspector may summon suspected persons.

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 an offence under this Act. On such person appearing before such Inspector he shall be dealt with under section 55.

Salt-officer may summon witnesses.

59. Any officer of the Salt Department duly empowered in this behalf by the [Central Board of Revenue][2] 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 [Central Board of Revenue][2] may, from time to time by notification, direct.

Terms of summons.

60. Summonses shall be in writing, shall require the persons 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.

Examination of witnesses whose attendance is dispensed with.

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 merely to produce documents.

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 to 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

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1 *See* now Act V of 1898.

2 The words "Central Board of Revenue" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—see Schedule, Part II.

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.[1]

X of 1882.

X of 1882.

65. Such Inspector shall exercise all the powers conferred by the Code of Criminal Procedure[2] 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.

Powers of Inspector to cause attendance of witnesses.

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.

Accused not to be detained in custody for a longer period than twenty-four hours.

67. All officers in charge of police-stations 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.

Custody of things seized under the Act.

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 Salt and other Departments to assist each other.

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

Prevention of, and information regarding offences.

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1 *See* now cl. (*b*) of sub-sec. (1) of sec. 190 of Act V of 1898.

2 *See* now Act V of 1898.

prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Zamindars and others to report manufacture of contraband salt.

70. All zamindars, 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.

Provisions regarding confiscation of things liable thereto.

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 [1][Collector of salt-revenue] may, subject to such rules as the [2]Governor-General in Council] may prescribe, order the confiscation thereof.

Disposal of things seized.

72. The [Governor-General in Council][2] 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.

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1 The words "Collector of Salt-revenue" were substituted for the word "Commissioner" by s. 2 of the Salt Law (Amendment) Act. 1925 (Act XXII of 1925)—*see* Schedule, Part II.

2 The words "Governor-General in Council" were substituted for the words "Governor in Council" by *ibid.*

73. The [Collector of salt-revenue][1] 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— Penalties for removal of salt without or in excess of permits, etc.

(*a*) removes any salt without or in excess of the permits rendered necessary by this Act ; or

(*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, XLV of 1860.

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 [2][of any rules framed by the][1] [Collector of salt-revenue] [under clauses (*b*), (*c*) and (*d*) of section 85-A] 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, or of any rule under clauses (*b*), (*c*) and (*d*) of section 85-A or of any permit.

1 The words "Collector of Salt-revenue" were substituted for the word "Commissioner" by s. 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*see* Schedule, Part II.

2 These words in square brackets were substituted by Mad. Act VIII of 1914.

Penalty for vexatious abuse of power by officer of Salt or other Department or by head of village.

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 unnecessarily seizes any article on the pretence of seizing or searching for contraband salt, or who vexatiously and unnecessarily detains, searches or arrests 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 perform duties, or using violence to person in 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 [Collector of salt-revenue][1] 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 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.

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1 The words "Collector of Salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*see* Schedule, Part II.

CHAPTER VIII.

General Provisions.

Publication of rules and notifications.

80. All rules made and notifications issued under this Act shall be made and issued by publication in the [1][Gazette of India] * * * * * *[1] 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, etc.

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 or officials generally by their official titles.

Service of summons, etc.

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[2] regarding the service of summons, so far as they may be applicable to the circumstances of the case :

X of 1882.

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 [Collector of Salt-revenue][3] from any money owing to the person from whom such sums may be recoverable or due which may be in the hands of the [Collector of Salt-revenue][3] or under his disposal or control or may be recovered by the [Collector of salt-revenue][3] 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 [Collector of salt-revenue][3] as if they were arrears of land-revenue.

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[1] The words "*Gazette of India*" were substituted for the words "*Fort St. George Gazette*" and the proviso following these words was omitted by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925).

[2] *See* now Act V of 1898.

[3] The words "Collector of Salt-revenue" were substituted for the word "Commissioner" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*see* Schedule, Part II.

Power to make rules.

85. The [1][Governor-General in Council] may from time to time make rules consistent with this Act for regulating the following matters, namely :—

([a]) [2][the grant of licenses and permits and the particulars and conditions to be contained therein except licenses under Chapter IV.]

[3] * * * * * * * *

[3] * * * * * * * *

[4]([b]) the time for the payment of duty and other charges and the assessment of such charges ;

[5] * * * * * * * *

[4]([c]) 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 ;

[5] * * * * * * * *

([d]) the disposal of things seized or confiscated ; and

[4]([e]) generally the carrying out of the provisions herein contained.

[6][**85 A.** Subject to the control of the [7][Central Board of Revenue] the [Collector of salt-revenue] [8]may from time to time make rules consistent with this Act for regulating the following matters, namely :—

([a]) the registry and acceptance of transfers and relinquishments of licenses ;

([b]) the manufacture, storage, sale and removal of salt or saltpetre in and from salt factories ;

([c]) the manufacture and refinement of saltpetre ; and

([d]) the routes by which salt shall be taken to a preventive station.]

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[1] The words "Governor-General in Council" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*see* Schedule, Part II.

[2] This clause was substituted by Mad. Act VIII of 1914.

The original clause ran as follows :—

"([a]) the grant of licenses and permits and the particulars and conditions to be contained therein ;"

[3] Clauses ([b]) and ([c]) were repealed by Mad. Act VIII of 1914.

[4] These clauses were lettered by *ibid.*

[5] Clauses ([e]) and ([g]) were repealed by *ibid.*

[6] Section 85-A was inserted by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

[7] The words "Central Board of Revenue" were substituted for the words "Governor in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925)—*see* Schedule, Part II.

[8] The words "Collector of salt-revenue" were substituted for the word "Commissioner" by *ibid.*

[1][**86.** (1)] An appeal shall lie from all proceedings and orders of officers appointed under this Act to their respective immediate superiors. Appeal against orders.

[2][(2) The Governor-General in Council may, on the application of any person aggrieved by any proceeding or order of the Central Board of Revenue under this Act, reverse or modify such proceeding or order.]

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. Limitation.

SCHEDULE.

[*Repealed by the Repealing and Amending Act*, 1901 (*XI of* 1901).]

MADRAS ACT No. II OF 1890. [3]

[THE CANALS AND PUBLIC FERRIES ACT, 1890.]

[1*st April* 1890; 9*th 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.

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 :— Preamble.

1. This Act may be called the Canals and Public Ferries Act, 1890. Short title and local extent.

It extends to the whole of the Presidency of Madras.

2. [*Repeal.*] *Rep. by the Repealing and Amending Act*, 1901 (*XI of* 1901).

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[1] Section 86 was renumbered as sub-section (1) of section 86 by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925).

[2] This sub-section was added by *ibid.*

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette Supplement*, dated 3rd December 1889, p. 3; for Report of the Select Committee, *see ibid*, dated 25th February 1890, p. 1; for Proceedings in Council, *see ibid*, dated 28th January 1890, p. 2, and *ibid*, dated 1st April 1890 p. 3.

The Act came into force on the 1st August 1890—*see Fort St. George Gazette*, 1890, Pt. I, p. 529.

Definitions.

3. In this Act "vessel" includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner :

"channel" includes any waterway, 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.

Vessels to be registered or licensed as directed by Government.

[1]**5.** All vessels using a canal shall be either licensed or registered as the Governor in Council may direct :

[2][Provided that the Governor in Council may exempt from the operation of this section all or any vessels or classes of vessels using a canal or portion of a canal.]

Power to fix fees and rates of toll and to establish toll-stations.

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.

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1 This section was substituted by Mad. Act II of 1895, s. 1.
2 This proviso was added to s. 5 by s. 2 of Mad. Act V of 1914.

7. Any person duly empowered by Government in this behalf may— Power of person duly authorized to impose punishment for breach of condition of license and to deal with any obstruction or with navigation in contravention of Act.

(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 recovered under clause (i) of this section or until the offence, if any has been inquired into and disposed of.

Powers under this section may be conferred either by name or in virtue of an office.

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. Power to apply Act to any ferry and define limits of ferry.

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 authorized to convey goods, animals or passengers by means Upon such application existing rights of ferry to cease.

Proviso.

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.

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 be public servants within the meaning of the Indian Penal Code. XLV of 1860.

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 collect 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, etc., 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 fifteen 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.

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. What payments may be recovered as arrears of revenue.

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 to time time direct. Form, etc., of licenses and registrations.

16. The Governor in Council may make rules in respect of any canal or public ferry for all or any of the following purposes :— Power to make rules.

(i) declaring the powers 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 condition ;

(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 purpose of this Act.

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 a 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 five hundred rupees, or both. Penalty for breach of rule.

18. Any person navigating a canal or establishing or working a ferry in contravention of section 5 or 9 of this Act shall be liable on conviction before a Criminal Court to fine not exceeding five hundred rupees. Penalty for navigating a canal or establishing or working a ferry in contravention of section 5 or 9.

Penalty for evasion of toll or fee and for unauthorized levy of toll, etc.

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 one hundred rupees, 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.

[1][**21.** The Governor in Council may delegate all or any of his powers under sections 5, 10, 11, 12, 13 and 15 to any officer not below the rank of District Collector or Superintending Engineer.]

MADRAS ACT No. I OF 1891.[2]

[THE MADRAS GENERAL CLAUSES ACT, 1891.]

[*3rd April*, 1891 ; *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, the 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. Mad. Act I of 1867.

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[1] Section 21 was added by Mad. Act VIII of 1914.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 3rd March, 1891, p. 5 ; for Report of the Select Committe, *see ibid*, dated 10th *idem*, p. 1 ; for Proceedings in Council, *see ibid*, dated 10th *idem*, p. 2, and *ibid*, dated 7th April, 1891, p. 1.

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,—

"Abet."

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code :

XLV of 1860.

"Barrister."

(2) "barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland:

"British India."

(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 :

"Chapter," "part," "section" and "schedule."

(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 :

"City of Madras."

(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 :

"Collector."

(6) "Collector" shall include every officer who, for the time being, is authorized to exercise the powers of a Collector :

"Commencement."

(7) "commencement," used with reference to an Act, shall mean the time at which the Act comes into force :

"District Collector."

(8) "District Collector" shall mean the chief local officer in charge of the revenue-administration of a district :

"Document."

(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 :

"Financial year."

(10) "financial year" shall mean the year commencing on the first day of April :

"Good faith."

(11) nothing is said to be done or believed in "good faith" which is done or believed without due care and attention :

"Local Government."

[1][(12) "Local Government" shall mean the Governor of Fort St. George in Council :]

"Her Majesty."

(13) "Her Majesty" shall include Her heirs and successors to the Crown :

"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 : XLV of 1860.

[(15 A) "India" shall mean British India, together with any territories of any Indian Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India.]

"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[3] :

"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 :

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1 This clause was substituted for the original clause (12) by Mad. Act II of 1896, s. 1.

2 This clause was inserted by section 1 of the Madras Act XI of 1920.

3 *See* now the Code of Criminal Procedure, 1898 (Act V of 1898).

(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 : "Presidency town."

(26) "public" includes any class of the public or any community: "Public."

(27) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code : "Public nuisance."

XLV of 1860.

(28) "registered" shall mean registered in British India under the law for the time being in force for the registration of documents : "Registered."

(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: "Sign."

(30) in the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father : "Son" and "father."

(31) "sub-section" shall mean a sub-section of the section in which the word occurs : "Sub-section."

(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 : "Value."

(33) "will" shall include a codicil and every writing making a voluntary posthumous distribution of property : "Will."

(34) words importing the masculine gender shall include females : Gender.

(35) words in the singular shall include the plural, and words in the plural shall include the singular : Number.

(36) words which refer to acts done extend also to illegal omissions : Illegal omissions.

(37) "writing," with its grammatical variations and cognate expressions, shall include "printing" "lithography," "photography," with their grammatical variations and cognate expressions, and other modes of representing or reproducing words in a visible form : "Writing."

(38) "year" and "month" shall, respectively, mean a year and month reckoned according to the British calendar. "Year" and "month."

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 publication, 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 form 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 the 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 conditions 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 suggestion 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 ;

(*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. Publication to be proof of due making of rules.

8. Where any Act, to which this Chapter applies, repeals any other enactment, then the repeal shall not— Effect of repealing an Act.

(*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 ;

(*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" ; Commencement 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" ; Termination of term.

(*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 to subordinates of law relative to official Superiors.

Application of law to successors of functionaries and corporations.

(*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 to the functionaries or corporations ; 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, 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, then, 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, [1] applies. XV of 1877.

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.

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[1] See now the Indian Limitation Act, 1908 (IX of 1908).

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 office, 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 titles.

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.

XLV of 1860. **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 or 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.

MADRAS ACT No. II OF 1893.[1]

[THE MADRAS INLAND CUSTOMS (AMENDMENT) ACT, 1893.]

[*9th March*, 1893; *25th March*, 1893.

An Act to amend section 13 of the Land Customs Act, VI of 1844.

Preamble.

WHEREAS it is expedient to amend the Land Customs Act, VI of 1844; It is hereby enacted as follows:—

Addition to section 13 of Act VI of 1844.

1. To section 13 the following proviso shall be added (namely):—

[*Vide p.* 78 *supra.*]

Construction of Act.

2. This Act shall be read as part of the Land Customs Act VI of 1844. Act VI of 1844.

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1 Sort title, "Madras Inland Customs (Amendment) Act, 1893" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 20th September, 1892, p. 1; for Report of the Select Committee, *see ibid*, dated 31st January, 1893, p. 10; for Proceedings in Council, *see ibid*, dated 24th January, 1893, p. 5; *ibid*, dated 7th March, 1893, p. 30.

The Governor General's assent to this Act was published for the first time in the *Fort St. George Gazette* of 18th April, 1893.

MADRAS ACT No. V OF 1893.[1]

[THE MADRAS REVENUE ENQUIRIES ACT, 1893.]

[*8th April, 1893*; *25th August 1893.*]

An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.

Preamble.

WHEREAS it is expedient to make further provision to facilitate enquiries into matters connected with the administration of the revenue and into the conduct of public servants; It is hereby enacted as follows :—

Local extent.

1. This Act extends to the whole of the Presidency of Madras.

Officer deputed to make enquiries invested with certain powers.

2. The Government may, by order, invest any officer deputed by it to make an enquiry into any matter connected with the administration of the revenue or into the conduct of any public servant as such with power to summon any person to appear before such officer or to produce any document or thing in the possession or under the control of such person the production of which, in the opinion of such officer, is necessary to the conduct of such enquiry.

Application of certain portions of Madras Act III of 1869.

3. The provisions of sections 2, 3, 4 and 5 of Madras Act III of 1869 shall, *mutatis mutandis*, apply to summonses issued under this Act.

Examination of witnesses.

4. Any officer making an enquiry under this Act may examine orally any person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all questions relating to such matter put to him by such officer, other than questions the answers to which would have a tendency to expose him to criminal charge or to a penalty or forfeiture.

Statements of witnesses not to be used as evidence in certain cases.

No such statement, when taken in the absence of a public servant whose conduct is under enquiry, shall be used as evidence against such public servant in any judicial proceeding.

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[1] Short title, "The Madras Revenue Enquiries Act, 1893" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 12th July, 1892, p. 1; for report of the Select Committee, *see ibid*, dated 14th February, 1893. p. 1; for Proceedings in Council, *see ibid*, dated 24th January, 1893, p. 5; *ibid*, dated 7th March, 1893, p. 3 *ibid*, dated 11th April, 1893, p. 4.

The Governor-General's assent to the Act was first published in the *Fort St. George Gazette* of 10th October, 1893.

MADRAS ACT No. I OF 1894.[1]

[THE MADRAS BOARD OF REVENUE ACT, 1894.]

[*24th November, 1893 ; 4th January, 1894.*]

An Act to provide further for the conduct of business by the Board of Revenue.

WHEREAS it is expedient to provide further for the conduct of business by the Board of Revenue ; It is hereby enacted as follows :—

1. [*Repeal.*] *Rep. by the Repealing and Amending Act, 1901 (XI of 1901.)*

Board may distribute business subject to approval of Government.

2. Notwithstanding anything contained in Regulation I of 1803, in Regulation V of 1804,[2] or in any other enactment in force in the Presidency of Madras, it shall be lawful for the Board of Revenue, subject to the approval of Government, to declare what portion of the business of the Board may be disposed of by a single member or by two members, and what portion shall be reserved for the decision of a Collective Board. Every such declaration shall, after approval by Government, be notified in the *Fort St. George Gazette* :

Proviso.

Provided that, in the case of any subject reserved for disposal by a single member or by two members, the said member or members may refer it, after consideration, for the opinion of another member or for the decision of a Collective Board, as the case may be, and that, where the opinions of two members differ, they shall refer the subject for the decision of a Collective Board.

Orders of one or more members to be orders of Board.

3. All orders made and decisions passed by one or more members of the Board in accordance with a declaration made under the last preceding section or with its proviso shall be held to be the orders and decisions of the Board of Revenue, and the same shall not be deemed invalid by reason that subsequent thereto the said declaration was disapproved by Government.

A Collective Board.

4. Not less than three members of the Board shall be held to constitute a Collective Board.

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[1] Short title, "The Madras Board of Revenue Act, 1894" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 24th January, 1893, p. 1 ; for Report of the Select Committee, *see ibid*, dated 16th May, 1893, p. 1 ; for Proceedings in Council, *see ibid*, dated 2nd May, 1893, p. 18 ; and *ibid*, dated 21st November, 1893, p. 17.

The Governor General's assent to the Act was first published in the *Fort St. George Gazette* of 23rd January, 1894.

See Mad. Act I of 1902. s. 7 (1).

[2] Repealed except as regards the Scheduled Districts — *see* section 2 of Madras Act I of 1902.

MADRAS ACT No. II OF 1894.[1]

[THE MADRAS PROPRIETARY ESTATES' VILLAGE-SERVICE ACT, 1894.]

[*8th February*, 1894 ; *29th March*, 1894.]

An Act to amend the law relating to village-officers in permanently-settled and certain other Estates.

WHEREAS it is expedient to amend the law relating to village-officers in permanently-settled estates, in unsettled pálaiyams, and in inám villages, and to make better provision for their appointment and remuneration, and for the prevention and summary punishment of misconduct or neglect of duty on their part, and generally for securing their efficiency ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Madras Proprietary Estates Village-service Act, 1894. Short title.

2. The Government may, by notification, extend this Act or any portion thereof to any estate within the Presidency of Madras, and to the office of any of the following classes of village-officers, by whatever designations such village officers may be locally known, in such estates :— Extent.

(1) village-accountants ;

(2) heads of villages ;

(3) village watchmen or police officers ; [and may at any time rescind, revoke, amend or vary, any such notification.][2]

In case of doubt whether a village-officer in any estate falls under any of the above classes, the Government shall have power to decide whether such village-officer comes under any of the above classes and, if so, under which of them.

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[1] Introduced as a Bill to amend the law in regard to " Karnams and other Village-officers " etc.

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 31st January, 1893, p. 8 ; for Report of the Select Committee, *see ibid*, dated 11th April, 1893, p. 1 ; for further Report of the Select Committee, *see ibid*, dated 8th November, 1893, p. 1 ; for Proceedings in Council, *see ibid*, dated 7th March, 1893, p. 3 ; *ibid*, dated 11th April, 1893, p. 4 ; *ibid*, dated 2nd May, 1893, p. 17 ; *ibid*, dated 21st November, 1893, p. 2, and p. 17 ; *ibid*, dated 9th January, 1894, p. 7 ; *ibid*, dated 23rd January, 1894, p. 3 ; *ibid*, dated 30th January, 1894, p. 2 ; *ibid*, dated 6th February, 1894, p. 6.

The Governor General's assent to this Act was published in the *Fort St. George Gazette* of 29th May, 1894.

[2] These words in square brackets were inserted by Mad. Act III of 1914.

Repeal.

3. Upon the extension of this Act or of any portion thereof to the office of village-accountant in any estate, section 11 of Madras Regulation XXV of 1802 [1] and Madras Regulation XXIX of 1802[1] (*a regulation for establishing the office of karnam and defining the duties of the said office*) shall cease to be in force in such estate.

Interpretation clause.

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

Estate.

"estate" means—

(*a*) any permanently-settled estate, whether a zamindári, jághir, mitta or pálaiyam ;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector ;

(*c*) any unsettled pálaiyam[2] [or jághir] ;

(*d*) any inam village of which the grant was made or confirmed by the British Government ;

(*e*) any portion, consisting of one or more villages, of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure :

"Proprietor."

"proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated and, in respect of an estate specified above in clause (*e*), the holder thereof ;

where an estate is so registered in the names of two or more persons as joint owners thereof, the proprietor shall, for the purposes of this Act, be the person who is recognized by the other joint-owners as the manager of the estate or who, in case of dispute, is recognized and registered by the Collector as senior joint-owner :

[3] [If one or more villages or portion thereof in any estate be grouped or amalgamated with one or more villages or portions thereof, in any other estate, the Collector shall declare which of the proprietors of the said villages shall for the purposes of this Act, be the proprietor of the new village.]

[4] * * * * * * *

"Village"

"village" means any local area situated in or constituting an estate to which this Act or any portion thereof has been extended and which is now recognized as a village or which may hereafter be declared by Government for the purposes of this Act to be a village :

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[1] Short titles respectively "The Madras Permanent Settlement Regulation, 1802", and "the Madras Karnams Regulation, 1802" were given by the First Schedule to the Repealing and Amending Act, 1901 (XI of 1901).

[2] These words were inserted by Mad. Act III of 1895, s. 2 (3), with effect from 1st October, 1895.

[3] This paragraph was added by Mad. Act III of 1914, s. 5.

[4] The proviso which was inserted by s. 1 of Mad. Act IV of 1900, was repealed by Mad. Act VI of 1911, s. 2.

"village-office" means, in respect of any estate, an office in such estate to which this Act or any portion thereof has been extended by notification under section 2; and "village-officer" means a person holding or discharging the duties of such office. "Village-office" and "Village-officer."

CHAPTER II.

VILLAGE-ESTABLISHMENTS; THEIR STRENGTH, APPOINTMENT AND CONTROL.

5. Every proprietor shall, within three months after requisition from the District Collector, prepare a register containing particulars of all the village-officers and village-servants employed in his estate and of their emoluments and duties in a form to be prescribed by the Board of Revenue, and shall submit it to the District Collector; Register of village-officers to be prepared and submitted to Collector on requisition.

Provided that the said Collector may at his discretion extend the period for the submission of the said register.

6. (1) Whenever it appears to the District Collector that, as a matter of administrative convenience, it is desirable that any portion of a village should be registered as a separate village, or that two or more villages or portions thereof [1][* * *] should be grouped or amalgamated, he shall, by notice in writing, require the proprietor [1][or proprietors concerned] and also the village-officers likely to be affected by the proposed change to show cause, within three months after service of such notice, why such portion of a village should not be so registered or such villages or portions thereof be so grouped or amalgamated. Division and grouping of villages.

(2) If the [2][proprietors] or the village-officers aforesaid fail to show such cause, the said Collector shall submit the records of the proceedings to the Board of Revenue, and shall then, with the pervious sanction of the said Board, declare by notification in the District Gazette such portion of a village or such villages or portions thereof so grouped or amalgamated to be a village for the purposes of this Act, and shall cause such notification to be published in the said village and a copy thereof to be furnished to the [proprietors].[2] Before according such sanction the Board of Revenue shall consider any representations which may be made to it wihtin three months of the Collector's submission of the record by the [proprietors][2] or by the village-officers aforesaid or by others affected.

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1 The words "in any estate" were omitted and the words in square brackets were substituted for the words "of the estate in which the village or villages is or are situated" by Mad. Act III of 1914, s. 6.

2 The word "proprietors" was substituted for "proprietor" by *ibid.*

[1] * * * * * *

Such establishment as Collector requires to be maintained in each village.

7. In every village there shall be maintained so many and such village-officers as the District Collector, subject to the orders of the Board of Revenue, may direct.

Vacancies in village-offices to be reported by proprietor.

8. Every vacancy caused by the death or resignation of a village-officer shall, within thirty days after the occurrence thereof, be reported by the proprietor to the Revenue-officer in charge of the division of the district wherein such village is situated.

Proprietor to appoint new officer but to report fact to Divisional Officer.

9. When a vacancy has occured in a village-office or the District Collector directs that a village-officer shall be appointed to a newly created village-office, the proprietor of the village shall, within six weeks, appoint a person to such vacant or newly created village-office and send notice of the appointment in writing, in such form as the Board of Revenue may, by rules made under section 32, prescribe, to the Revenue-officer in charge of the division of the district in which the village is situated.

Rules to be observed in making appointments.

10. In making an appointment under section 9 the proprietor shall observe the rules contained in the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment to any village-office who—

(*a*) is not of the male sex ;

(*b*) has not attained the age of majority ;

(*c*) is not physically and mentally capable of discharging the duties of the office ;

(*d*) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 32 ;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Revenue-officer in charge of the division or of the District Collector, disqualifies him for holding the office.

Primogeniture to be observed in cases of hereditary office.

(2) The succession to all hereditary village-offices shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamíndárís in Southern India.

[1] Sub-section (3) was repealed by Mad. Act III of 1914. The original sub-section ran as follows :—(3) The cost, if any, of all proceedings under sub-sections (1) and (2) shall be paid from the Proprietary Estates' Village service Fund constituted under section 28.

(3) Where the next heir to an hereditary village-office is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession who is so qualified, and in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1). In certain cases person other than direct heir may be appointed.

11. (1) If the Revenue-officer to whom notice of appointment is sent under section 9 considers the person appointed to be qualified under sub-section (1) of the preceding section, he may at any time within three months from the date of the receipt by him of the said notice of appointment, and, in cases falling under clauses (*c*) and (*e*) in sub-section (1) of section 10, after giving notice to the parties concerned and making inquiry, record his objections and call upon the proprietor to appoint another person, and the proprietor shall thereupon do so and send notice of such new appointment to the said Revenue-officer within six weeks after such requisition. Divisional Officer may, after, in certain cases, holding inquiry, require proprietor to appoint another person.

Provided that the person first appointed by the proprietor shall discharge the duties of the office and be entitled to the emoluments thereof until his appointment is set aside and another person is appointed in his place.

(2) If the notice of appointment referred to in section 9 or the notice of the new appointment referred to in sub-section (1) is not received within the prescribed time, or if the person newly appointed under sub-section (1) is also considered by the said Revenue-officer, after giving notice and making inquiry as aforesaid, to be disqualified as aforesaid, such officer may make the appointment himself by selecting a person duly qualified under Section 10. In certain cases Divisional Officer may himself make the appointment.

(3) Whenever an appointment is disallowed under this section, an appeal shall lie to the District Collector within one month, or if the officer disallowing the appointment is the District Collector, an appeal shall lie to the Board of Revenue within three months. Appeal allowed.

12. Where an hereditary village-office has become vacant by the dismissal or suspension of the last holder, the authority by whom he was dismissed or suspended may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) of section 10 who is not an undivided member of the family of the dismissed or suspended officer, to be appointed by the proprietor subject to the approval of the Revenue-officer in charge of the division : In certain cases appointment of member of family of last holder may be prohibited.

Provided that, when the officer who has been dismissed dies or if the officer who has been suspended dies while under

suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3) of section 10.

Procedure to be adopted where heir of last holder is a minor.

13. When the person who would otherwise be entitled to succeed to an hereditary village-office is a minor, the proprietor shall submit his name to the Revenue-officer in charge of the division for registration as the heir of the last holder, and shall, at the same time and subject to the approval of the said Revenue-officer, appoint some other person qualified under sub-section (1) of section 10 to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) of section 10 to discharge the duties of the office himself, when he shall be appointed thereto by the proprietor.

[1][If the person registered as heir under this section remains disqualified under sub-section (1) of section 10 for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death, the vacancy shall be filled up in accordance with the provisions of this Act, as if he was the last holder of the office].

Procedure to be ordinarily adopted in case of resignation, dismissal, removal or suspension of officer.

14. (1) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an hereditary village-office, and the authority by whom he was dismissed or suspended does not give the direction referred to in section 12, the vacancy shall be filled up in accordance with the provisions of this Act as if it had been caused by the death of the said holder :

Provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

(2) The provisions of section 11 shall, *mutatis mutandis*, apply to appointments to be made under this section and sections 12 and 13.

Appointments how to be made in grouped and divided villages.

15. (1) When two or more villages or portions thereof are grouped or amalgamated under this Act to form a single new village, or any village is divided into two or more villages, all the village-officers of the villages or village so grouped, amalgamated or divided shall cease to exist and new offices which shall be hereditary if any of the offices they replace were

[1] These sentences were substituted for the last sentence of section 13 by section 2 of the Madras Village-Offices (Amendment) Act, 1930 (Madras Act VII of 1930).

hereditary shall be created for the new village or villages. In choosing persons to fill such new offices, the proprietor shall select the persons whom he may consider the best qualified from among the [1][families of the last] holders of the offices which have been abolished and shall report his action to the Revenue-officer in charge of the division.

Who to be retained in case of reduction of establishment.

(2) If in any village two or more village-offices of any one class exist and the District Collector, acting under section 7, considers that a reduction in the number of such offices is necessary, he shall give notice to that effect to the proprietor, who shall thereupon dispense with the services of the officers no longer required, shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices, and shall report his action to the Revenue-officer in charge of the division.

Divisional Officer to exercise powers of proprietor in certain cases.

(3) If the proprietor fails to submit the report referred to in sub-sections (1) and (2) within six weeks of the creation of the new offices or of the issue of the District Collector's notice directing a reduction in the number of village-offices, the powers vested in the proprietor by sub-sections (1) and (2) may be exercised by the Revenue-officer in charge of the division.

[2][(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2), by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in section 13 shall be adopted.]

Proprietor if specially empowered may punish village officers by fine, subject to appeal.

16. (1) A proprietor empowered in this behalf by the Board of Revenue may, after inquiry, fine any village officer, to the extent of three rupees, for misconduct or neglect of duty as such village-officer, and shall record his reasons for so doing in writing and furnish a copy of the same to such village-officer and to the Revenue-officer in charge of the division. An appeal shall lie within one month from the date of furnishing such copy against such fine to the said Revenue-officer, whose decision shall be final.

The powers conferred under this sub-section by the Board of Revenue on any proprietor may, at any time, be withdrawn.

Collector and Divisional Officer may fine, suspend, dismiss or remove village-officers.

(2) The District Collector or Revenue-officer aforesaid may, of his own motion or on complaint and after inquiry, fine, suspend, dismiss or remove any village-officer for misconduct or for neglect of duty or incapacity as such village-officer or

[1] These words were inserted by Mad. Act III of 1895, s. 2 cl. (3), with effect from 1st October, 1895.

[2] Sub-section (4) was inserted by section 2 of the Madras Village-Offices (Amendment) Act, 1930 (Madras Act VII of 1930).

for non-residence in the village, and shall record his reason for so doing in writing and furnish a copy of the same to the proprietor and to the village-officer concerned. Every village-officer convicted of an offence of the kind mentioned in sub-section (1) (*e*) of section 10 shall be dismissed.

Appeals against orders passed under sub-section (2).

(*3*) Against every order passed by the District Collector or Revenue-officer aforesaid under sub-section (2) an appeal shall lie to the Board of Revenue within three months or to the District Collector within one month, as the case may be.

The decision on appeal of the Board of Revenue or the said Collector, as the case may be, shall be final: Provided that a second appeal shall lie within three months to the Board of Revenue against the order of the District Collector confirming on appeal the order of the Revenue-officer in charge of the division dismissing a village-officer.

CHAPTER III.

THE VILLAGE-SERVICE-CESS; ITS AMOUNT AND APPORTIONMENT AND THE METHOD AND INCIDENTS OF ITS LEVY.

Government may enfranchise village-service inams by imposition of quit-rent.

17. If the remuneration of a village-office consists in whole or in part of lands, or assignments of revenue payable in respect of lands, granted or continued in respect of or annexed to such village-office by the State, the Government may enfranchise the said lands from the condition of service by the imposition of quit-rent under the rules for the time being in force in respect of the enfranchisement of village-service-inams in villages not permanently settled or under such rules as the Government may lay down in this behalf; such enfranchisement shall take effect [1][from such date as the Government may notify]:

Date from which enfranchisement to take effect.

Provisos.

Provided that the said enfranchisement shall be applicable to all lands or assignments as aforesaid even though, at the time this Act comes into force they may not be devoted to the purpose for which they were originally granted;

and provided, further, that any lands or emoluments derived from lands which may have been granted by the proprietor for the remuneration of village-service and which are still so held or enjoyed may be resumed by the grantor or his representative.

18 to 26. *Repealed by the Madras Proprietary Estates Village-service (Amendment) Act*, 1914 (*Mad. Act III of* 1914).

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1 These words in square brackets were substituted for the words "on or after the date fixed in the notification issued under section 19 for the levy of a village-service cess," by Mad. Act III of 1914.

27. On or after the date notified under [1][the provisions of this Chapter] Payments in excess of permanent assessment lawful in certain cases.

(1) if in any estate the cost of village-establishments was provided for by a reduction of the permanent assessment on the condition that the amount of such reduction should be devoted to paying the village-establishments, it shall be lawful for the Government to require the proprietor to pay, along with the present permanent assessment, such sum, not exceeding the amount of such reduction as represents the annual remuneration at the time of such reduction of the classes of village-officers brought within the scope of this Act ;

(2) where the said cost of village-establishments was provided for by a deduction from the assets of an estate before its permanent assessment was fixed, it shall be lawful for the Government to require the proprietor to pay, along with the present permanent assessment, a sum equal to that by which it would have been increased had no such deduction been made on account of the remuneration of the classes of village-officers brought within the scope of this Act ;

in either of the cases referred to in sub-sections (1) and (2), the proprietor shall no longer be liable for the payment of such classes of village-officers ; [2][* * * *] ;

(3) where the cost of maintaining any office to which this Act has been extended under section 2, and which is in existence in an estate at the date upon which this Act is extended thereto was included in the assets upon which the permanent assessment of the estate was fixed, the said permanent assessment shall be reduced to the amount at which it would have been fixed had no such inclusion in the assests taken place ; Permanent assessment shall be reduced in certain cases.

(4) if, in any case, the rent payable to a proprietor in respect of any land has been fixed under an agreement, subsisting on the date of this Act coming into force, to the effect that any portion of the remuneration of the village-officers shall be borne by the tenant or the proprietor, as the case may be, it shall be lawful for the proprietor or tenant to apply to the Collector for sanction to increase the said rent or to demand its reduction ; and the Collector shall, upon receipt of such application and upon satisfactory proof of the justice of the claim, grant such sanction and increase Rent may be raised or reduced in certain cases.

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1 Those words were substituted for the word and figures "section 19" by Mad. Act III of 1914, s. 9.

2 The words " and the payments made along with the permanent assessment shall be credited to the Proprietary Estates' Village-service Fund" were omitted by *ibid.*

or reduce the rent to the amount at which it would have been fixed had no such agreement been entered into.

CHAPTER IV.

THE VILLAGE-SERVICE-FUND ; ITS CONSTITUTION AND THE PAYMENT OF SALARIES THEREFROM.

28. [*Proprietary Estates' Village-service Fund.*] *Rep. by the Mad. Proprietary Estates' Village-service (Amendment) Act,* 1914 (*Mad. Act III of* 1914).

Salaries and allowances of village-officers to be paid from fund after date to be notified.

29. On or after the date notified in any estate under [1][the provisions of Chapter III], the village-officers shall be paid [1][* * * *] the salaries and other allowances to which they may be entitled according to such scale and in such manner as may be prescribed by the Board of Revenue by rules made under section 32.

No fee, etc., to be collected or demanded in respect of village officers, after date to be notified.

30. On or after the date notified in any estate under [1][the provisions of Chapter III], all fees, contributions and allowances collected or demandable in such estate for the remuneration of village-officers shall absolutely cease and determine.

Penalty for demanding fees, etc.,

Whoever, thereafter, in such estate demands, collects or receives such fees, contributions, or allowances shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees.

CHAPTER V.

GENERAL.

Penalties.

31. (1) Every proprietor who wilfully omits—

(*a*) to furnish a register as required by section 5,

(*b*) to submit the name of a minor heir as required by section 13,

[2][* * * * *]

Penalties.

shall be liable to the imposition by the District Collector of a penalty not exceeding one-hundred rupees for every such omission : Provided that a proprietor wilfully omitting to

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1 These words and figure were substituted for the word and figures "section 19" and the words "from the aforesaid fund of the district in which the estate is situated" were omitted by Mad. Act III of 1914.

2 Clause (*c*) was omitted by *ibid.* The original clause ran as follows :— "(*c*) to furnish the Collector with the list required by section 21."

furnish the register required by section 5 shall be liable to a further penalty not exceeding twenty-five rupees for each day during which the omission continues after the imposition of the first penalty. A penalty imposed under this section shall be recoverable in the manner provided in Madras Act II of 1864 for the recovery of arrears of land-revenue.

(2) An appeal shall lie within three months against every penalty imposed under this section to the Board of Revenue.

Power to make rules.

32. The Board of Revenue may, with the approval of Government and after previous publication, make rules not inconsistent with this Act in regard to the following matters :—

(i) the division, grouping, and amalgamation of villages ;

(ii) the educational qualifications required of village-officers ;

(iii) the form of register to be prepared under section 5 and the form of notice of appointment to be sent under section 9 ;

(iv) the salaries and other allowances to be assigned to village-officers and the method of their payment ;

(v) the duties of the several village-officers and the descriptions and forms of the accounts and registers to be kept by them ;

(vi) the procedure to be followed in conducting inquires under section 16 ;

(vii) the custody, production and transfer of the accounts and other records kept by village-officers ;

[1][* * * * * *]

(ix) the dates for payment by instalments of quit-rent [1][* *] and the amounts of such instalments ;

(x) any other matters calculated to enhance the efficiency of the village-service.

Jurisdiction of Civil Courts ousted in certain cases.

[**33.** No Civil Court shall have authority to take into consideration or decide any question regarding the rates or amounts of the quit-rent or payment, under section 27 imposed or levied under this Act.]

In certain cases Board of Revenue to dispose of appeals made to District Collectors.

34. If the officer to whom an appeal is presented under this Act in the capacity of District Collector happens to be the officer who passed the decision which is appealed against in the capacity of Revenue-officer in charge of a division, he shall report the fact to the Board of Revenue, and the appeal shall be disposed of by the said Board, whose decision shall be final.

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1 Clause (viii) and the words " and cess " in cl. (ix) were omitted by **Mad. Act III of 1914.**

The original cl. (viii) ran as follows :—" (viii) the management and audit of the fund constituted under this Act and the accounts to be maintained in connection therewith."

2 This section was substituted by *ibid.*

MADRAS ACT No. II OF 1895.

[THE MADRAS CANALS AND PUBLIC FERRIES (AMENDMENT) [1] ACT, 1895.]

[21*st March*, 1895 ; 14*th May*, 1895.]

An Act to amend Madras Act II of 1890.

Preamble. WHEREAS it is expedient to provide for the licensing of vessels carrying goods, animals or passengers otherwise than for hire on canals to which the Madras Canals and Public Ferries Act, 1890, applies ; It is hereby enacted as follows :—

Substitution of law section for section 5. **1.** For section 5 of the Madras Canals and Public Ferries Act, 1890, the following section shall be substituted :—

[*Vide page* 490 *supra*.]

MADRAS ACT No. III OF 1895.[2]

[THE MADRAS HEREDITARY VILLAGE OFFICES ACT, 1895.]

[8*th April*, 1895 ; 1*st July*, 1895.]

An Act to repeal Madras Regulation VI of 1831, and for other purposes.

Preamble. WHEREAS it is expedient to provide more precisely for the succession to certain hereditary village-offices in the Presidency of Madras ; for the hearing and disposal of claims to such offices or the emoluments annexed thereto ; for the appointment of

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1 Short title, "The Madras Canals and Public Ferries (Amendment) Act 1895"— *see* the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 18th September, 1894, p. 1 ; for Proceedings in Council, *see ibid*, dated 5th February, and 2nd April, 1895, p. 16.

2 For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 7th November, 1893, p. 2 ; for Report of the Select Committee *see ibid*, dated 12th November, 1893, p. 1 ; for further Report of the Select Committee, *see ibid*, dated 5th February, 1895, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st November, 1893, p. 21 ; *ibid.* dated 4th December 1894, p. 8 ; *ibid*, dated 5th February, 1895 p. 18 ; *ibid*, dated 2nd April, 1895, p. 9 ; *ibid*, dated 30th April, 1895, p. 1 ; *ibid*, dated 28th May, 1895, p. 1.

It has been extended under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to all the Scheduled Districts in the Godavari district with the exception of the Ducharti and Guditeru Muttas—*see Gazette of India*, 1896, Pt. 1, p. 249.

This Act is not in force in the taluqs of Nugur, Albaka and Cherla, *vide* s. 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (I of 1909).

persons to hold such offices and the control of the holders thereof; and for certain other purposes; It is hereby enacted as follows :—

Title, commencement and extent.

1. (1) This Act may be called the Madras Hereditary Village-offices Act, 1895; and it shall come into force from such date as may be notified by Government.[1]

(2) Section 5 applies to the whole of the Presidency of Madras; the rest of the Act applies to the whole of the said Presidency except the scheduled districts as defined in the Scheduled Districts Act, 1874.

XIV of 1874.

Repeal.

2. (1) [2]* * * * * * On and after the commencement of this Act, no portion of Madras Regulation XXIX of 1802 shall continue to apply to any local area which is not a permanently-settled proprietary estate.

Amendment of Act XXIV of 1859.

(2) From the preamble 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), the words "and improve the condition of the village police" shall be omitted; and, for the definition of the word "Police" in section 1 of the same Act, shall be substituted the following clause, namely :—

> "The word 'Police' shall include all persons appointed under this Act."

Amendment of Madras Act II of 1894.

(3) In clause (*c*) of the definition of the word "Estate" in section 4 of the Madras Proprietary Estates' Village Service Act, 1894, after the word "palaiyam" shall be inserted the words "or jaghir"; and, in sub-section (1) of section 15 of the same Act between the words "among the" and the words "holders of the offices," shall be inserted the words "families of the last."

Classes of village-offices to which Act applies.

3. This Act shall apply to the following classes of village-offices, provided, that emoluments have been attached thereto :—

[3](1) hereditary village-offices existing in ryotwari villages or inam villages which for the purpose of village administration are grouped with ryotwari villages and belonging to the following six classes, by whatever designation they may be locally known, namely :—

(i) village munsifs,

(ii) potels, monigars and peddakapus,

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1 The Act was brought into force from 1st October 1895—Revenue Notification No. 464, dated 22nd August, 1895, *Fort St. George Gazette*, 1895, Part I, page 1002.

2 The words and figures "Madras Regulations II of 1806 and VI of 1831 are hereby repealed and" were repealed by the Repealing and Amending Act, 1901 (XI of 1901), Third Schedule.

3 This clause was substituted by the Repealing and Amending Act, 1907 IV of 1907), Schedule A.

(iii) karnams,

(iv) nirgantis,

(v) vettis, totis and tar dalgars,

(vi) talayaris.

The Local Government shall have power to decide what officers come under any of the above classes.

(2) hereditary village-offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended; Madras Act II of 1894.

(3) other hereditary village-offices in proprietary estates except (*i*) the offices forming class (4) below and (*ii*) in proprietary estates wherein Madras Regulation XXIX 1802 remains in force, the office of village accountant;

(4) the hereditary offices of village artizans and village servants such as the following, namely :—

(i) the village carpenter,

(ii) the village blacksmith,

(iii) the village barber,

(iv) the village washerman,

(v) the village potter,

(vi) the village astrologer,

(vii) the village purohit or priest.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,— "Emoluments" means and includes—

(i) lands;

(ii) assignment of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any office by the State.

"Proprietary estate" and "Proprietor" mean, respectively, an Estate and Proprietor as defined in the Madras Proprietary Estates Village Service Act, 1894, as amended by this Act. Madras Act II of 1894.

"Village" means any local area now recognized as a village or hereafter declared by Government to be a village.

Emoluments attached by the State to certain offices inalienable and not liable to attachment.

5. The emoluments of village-offices, whether such offices be or be not hereditary, and, in the scheduled districts as defined in the Scheduled Districts Act, 1874, all such emoluments and other emoluments granted or continued in remuneration for the performance of duties connected with the collection of the revenue or the maintenance of order, shall not be liable to be transferred or encumbered in any manner IV of 1874.

whatsoever and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Villages may be grouped or divided.

6. (1) [1][In any local area in which this Act is in force] the Board of Revenue may, subject to rules made in this behalf under section 20, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages and, thereupon, all hereditary village-offices [2] [of the classes defined in section 3, clause (1), of this Act] in the villages or portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist and new offices, which shall also be hereditary shall be created for the new village or villages. In choosing persons to fill such new offices, the Collector shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have been abolished.

Effect of grouping and division upon village offices.

Reduction of village-offices.

(2) If two or more village-offices exist [3] [in any ryotwari village or in any inam village which for the purpose of village administration is grouped with a ryotwari village] the Board of Revenue may, subject to the approval of Government direct that the number of such village-offices shall be reduced and, thereupon, the Collector shall dispense with the services of the officers no longer required, and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

[4][(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2) by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in sub-section (5) of section 10 shall be adopted.]

Power of Collector over village-officers in Government villages and proprietary estates.

7. (1) The Collector may, of his own motion or on complaint and after inquiry, fine, suspend, dismiss or remove the holder of any of the offices forming class (1) in section 3, and suspend, dismiss or remove the holder of any of the offices forming class (3) in the said section, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, and shall make a record of his

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1 These words were substituted for the words " In any local area in which the Madras Village Cess Act, 1893, is in force " by the Repealing and Amending Act, 1907 (IV of 1907), Schedule A.

2 These words were substituted for the words " to which the said Act applies " by *ibid*.

These words were substituted for the words "in any village in which the Madras Village Cess Act, 1893, is in force " by the Repealing and Amending Act, 1907 (IV of 1907), Schedule A.

4 Sub-section (3) was inserted by section 3 of the Madras Village-Offices (Amendment) Act, 1930 (Madras Act VII of 1930).

reasons for so doing in writing and furnish a copy of the same to the village-officer concerned :—

Proviso.

Provided that, when a Village Munsif who is also the head of the village is suspended or removed under the Madras Village Courts Act, 1889, such suspension or removal shall involve his suspension or removal from the office of head of the village. Madras Act I of 1889.

Power of Tahsildar and Deputy Tahsildar over village-officers in Government villages.

(2) A Tahsildar or Deputy Tahsildar may, of his own motion or on complaint and after inquiry, fine the holder of any of the offices forming class (1) in section 3, for any of the causes specified in sub-section (1) and in such amount as the Board of Revenue may, by general or special order, prescribe. The provisions of sub-section (1) in regard to the recording of reasons and the furnishing of copies shall apply to proceedings taken under this sub-section.

Power of proprietor over village-officers in proprietary villages.

8. A proprietor may, of his own motion or on complaint and after inquiry, suspend, dismiss or remove the holder of any of the offices in his estate forming class (3) in section 3, except the village accountant, the head of the village and the village watchman or police-officer, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village-officer concerned.

Limitation of power of Collector over certain officers in proprietary estates.

9. The powers conferred on a Collector by sub-section (1) of section 7 over the holders of the village-offices forming class (3) in section 3, except the offices of village accountant, head of the village and village watchman or police-officer shall not be exercised, unless, for reasons to be recorded in writing, the Collector is satisfied that the proprietor concerned has neglected to exercise in an adequate manner the powers conferred on him by section 8.

Rules to be observed in making appointments to certain offices in Government villages.

10. When a vacancy occurs in any of the village-offices forming class (1) in section 3, the Collector shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex ;

(*b*) has not attained the age of majority ;

(*c*) is not physically and mentally capable of discharging the duties of the office ;

(*d*) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 20 ;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Collector, disqualifies him for holding the office.

Primogeniture to be observed.

(2) The succession shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamindaris in Southern India.

In certain cases person other than direct heir may be appointed.

(3) Where the next heir is not qualified under sub-section (1), the Collector shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Collector may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Collector shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. [1][If the person registered as heir under this sub-section remains disqualified under sub-section (1) for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office.]

Method of filling up vacancy caused by resignation, dismissal removal or suspension.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office, and the Collector does not give the direction referred to in sub-section (4) he shall fill up the vacancy in accordance with the provisions of this section as if it had

[1] The portion within square brackets was substituted for the last sentence of sub-s. (5) of s. 10 by s. 3 (ii) of the Madras Village-Offices (Amendment) Act, 1930 (Madras Act VII of 1930).

been caused by the death of the said holder ; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

Rules to be observed in making appointments to certain offices in proprietary estates. General qualifications requisite in all cases.

11. When a vacancy occurs in a proprietary estate in any of the offices forming class (3) in section 3, the proprietor shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

(1) No person shall be eligible for appointment who—
(*a*) is not of the male sex ;
(*b*) has not attained the age of majority ;
(*c*) is not physically and mentally capable of discharging the duties of the office.

Law or custom of succession to be observed.

(2) The succession shall devolve in accordance with the law or custom applicable to the office in question at the date on which this Act comes into force.

In certain cases person other than direct heir may be appointed.

(3) Where the next heir has not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Procedure to be adopted where heir is a minor.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to perform the duties of the office until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. [If the person registered as heir under this sub-section, on attaining majority, proves to be disqualified under clause (*c*) of sub-section (1), he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office.]

In case of village artizans, law or custom of succession to be observed.

12. The succession to village-offices forming class (4) in section 3 shall devolve in accordance with the law or custom applicable thereto at the date on which this Act comes into force.

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[1] The portion in square brackets was substituted for the last sentence of sub-sec. (4) of sec. 11 by sec. 3 (iii) of the Madras Village-Offices (Amendment) Act, 1930 ; (Madras Act VII of 1930).

Provisions relating to suits for offices for recovery of emoluments and for registry as heir.

13. (1) Any person may sue before the Collector for any of the village-offices specified in section 3 or for recovery of the emoluments of any such office, on the ground that he is entitled under sub-section (2) or (3) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (2) or (3) of section 10 or sub-section (2) or (3) of section 11 or section 12 of this Act, as the case may be, to hold such office and enjoy such emoluments ; or, being a minor, may sue before the Collector to be registered as heir of the last holder of any such office.

Madras Act II of 1894.

Provisos :—

No suit for declaratory decree.

(i) No suit shall be entertained for a mere declaratory decree.

Procedure in case of dispute as to nature of emoluments.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Collector shall decide the claim on the assumption that only the said assignment constitutes the emoluments ; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Rejection of plaint when claimant is ineligible for appointment.

(2) If at any time before the completion of the trial of a suit preferred under this section for any office or for the recovery of the emoluments of any office, it appears to the Collector that the claimant is not eligible for appointment under sub-section (1) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (1) of section 10 or sub-section (1) of section 11 of this Act, as the case may be, he shall pass an order rejecting the plaint.

Madras Act II of 1894.

Limitation of time within which suits may be brought.

14. (1) No suit preferred before a Collector under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising whether such date be before or after the commencement of this Act ;

Limitation in case of minority.

Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Limitation of time within which execution of decree or order may be applied for.

(2) No application for the execution of a decree or order passed under this Act shall be entertained, if made after the expiration of one year from the date of such decree or order.

Execution of decrees and orders passed under Regulation VI of 1831.

(3) Decrees or orders passed under Madras Regulation VI of 1831 may be executed under the provisions of this Act ; provided that no application for the execution of such decree or order shall be entertained, if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Act.

Limitation when appeal preferred.

(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.

Power of District Collector in regard to transfers of suits.

15. The District Collector may transfer to his own file any suit on the file of any Revenue-officer in charge of a division of the district or from the file of one such officer to that of another, or to the file of an assistant or Deputy Collector not in charge of a division for disposal.

Procedure to be observed in trying suits.

16. (1) The trial of suits under this Act shall be regulated by rules made by the Board of Revenue under section 20 and by the following provisions :—

Date of hearing to be fixed and parties to be heard.

(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties who shall be entitled to be in person or by agent ;

Witnesses may be produced or summoned.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so ;

Record of proceedings.

(iii) The officer trying the suit shall record, in his own hand and in English a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Obligation to obey summons.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Decrees may provide for costs and shall be executed according to rules made by Board of Revenue.

17. Decrees and orders passed in suits under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by the Board of Revenue under section 20, and shall be executed in accordance with rules to be made by the Board of Revenue under the said section.

In certain cases, Collector may refer question of law to Board of Revenue.

18. (1) If, before or during the hearing of a suit under this Act or of an appeal against a decree or order passed in a suit under this Act, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts

of the case and the point on which doubt is entertained, and refer such statement for the decision of the Board of Revenue and shall stay further proceedings until the said decision is communicated to him.

Procedure to be followed in case of such reference.

(2) The Board of Revenue shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the said Board, and the correctness of the decision of the said Board shall not be contested in any appeal made under this Act.

Decision of Board of Revenue not to be contested.

Disposal of suits and appeals pending at commencement of this Act.

19. All suits brought and appeals made under Madras Regulation VI of 1831 shall, after the commencement of this Act, be heard and disposed of as if they had been preferred under this Act.

Board of Revenue may make rules on certain subjects.

20. The Board of Revenue may, with the approval of Government and after previous publication, make rules not inconsistent with this Act or with the Madras Proprietary Estates' Village Service Act, 1894, in regard to the following matters :—

Madras Act II of 1894.

(i) the division, grouping and amalgamation of villages ;

(ii) the holding of inquiries under sections 6, 7 and 8 and the hearing of appeals under section 23 ;

(iii) the educational qualifications required of the holders of the village-offices forming class (1) in section 3 ;

(iv) the procedure to be followed in disposing of suits and appeals from decrees or orders passed in suits and the registers to be maintained in connection therewith ;

(v) the execution of decrees and orders passed in suits and the taxation of costs ;

(vi) the salaries and other allowances to be assigned to the holders of the village-offices forming class (1) in section 3 and the method of their payment ;

(vii) the duties of the holders of the village-offices forming classes (1) and (3) in section 3, and the descriptions and forms of the accounts and registers to be kept by them ;

(viii) the custody, production and transfer of the accounts and other records kept by the holders of the village-offices forming classes (1) and (3) in section 3;

(ix) the publication of administration reports under * * *[1] the Madras Proprietory Estates' Village Service Act, 1894, and this Act; Madras Act II of 1894.

(x) any other matters calculated to enhance the efficiency of the village service.

Jurisdiction of Civil Courts barred.

21. No Civil Court shall have authority to take into consideration or decide any claim to succeed to any of the offices specified in section 3 or any question as to the rate or amount of the emoluments of any such office or except as provided in proviso (ii) to sub-section (1) of section 13, any claim to recover the emoluments of any such office:

Proviso empowering Civil Courts to set aside the decisions of Revenue Courts on the question of jurisdiction.

Provided that, if, in any suit instituted under this Act, the defendant has pleaded before the Collector that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Act, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.

Nothing in this Act to prevent recovery of emoluments as arrears of revenue or to affect office which is not now hereditary.

22. Nothing herein contained shall affect the provisions of section 52 of Madras Act II of 1864 or the provisions of Madras Act IV of 1866 or, except as provided in sub-section (1) of section 6, shall be deemed to create or confer an hereditary right to any village-office.

Appeal against order or decree of Collector.

23. (1) From every order passed by a Collector under section 6 or 7, and from every decree or order passed by a Collector in a suit preferred under section 13, an appeal shall lie, within one month, to the District Collector, or, if the said order or decree was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final.

Second appeal in certain cases.

Provided that, in respect of the offices of head of the village and village accountant, a second appeal shall lie,

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[1] The words "The Madras Village Cess Act, 1893," were omitted by the Repealing and Amending Act 1907 (IV of 1907), Schedule— A.

within three months, to the Board of Revenue, against the decision on appeal of the District Collector in suits preferred under section 13 and in cases of dismissal of a village-officer under section 7.

Appeals against order of Tahsildar, Deputy Tahsildar or proprietor.

(2) From every order passed by a Tahsildar or Deputy Tahsildar under sub-section (*2*) of section 7, and from every order passed by a proprietor under section 8, an appeal shall lie, within one month, to the Collector whose decision shall be final.

[1][**23 A.** Notwithstanding anything contained in any Regulation or Act to the contrary, no appeal shall lie after the commencement of this Act from any decree or order passed in any suit brought or appeal made under Madras Regulation VI of 1831 unless such appeal would lie under section 23 had the decree or order sought to be appealed against been passed in a suit, appeal or proceeding commenced under this Act.]

Disposal of appeal by officer who passed original order.

24. If the officer to whom an appeal is presented under this Act in the capacity of District Collector or Collector happens to be the officer who passed the decision which is appealed against in another capacity, he shall report the fact to the Board of Revenue or to the District Collector, as the case may be, and the appeal shall be disposed of by the said Board or District Collector and the order passed on appeal shall be final.

Certain provisions of Limitation Act to apply.

25. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications, shall *mutatis mutandis*, apply to suits, appeals, or applications for the execution of decrees or orders, instituted, preferred or made under this Act.

XV of 1877.

Power of Government to place village watchman under police authorities.

26. The Government may declare that the powers of punishing village officers which are vested in the Collector by this Act and by the Madras Proprietary Estates' Village Service Act, 1894, shall be exercised in any specified local area by the District Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or police-officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or police-officer passed by a District Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Magistrate, whose decision shall be final.

Madras Act II of 1894

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[1] This section was inserted by the Madras Hereditary Village-offices (Amendment) Act, 1897 (II of 1897), section 1, and it shall be deemed to have been inserted at the time when the Madras Hereditary Village-offices Act, 1895 (III of 1895), came into force.

MADRAS ACT No. I OF 1896.[1]

[THE MADRAS RENT RECOVERY (AMENDMENT) ACT, 1896.]

[12*th November*, 1895 ; 2*nd January*, 1896.]

An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.

Preamble.

WHEREAS it is expedient to exclude the Malabar District and the portion of the Nilgiri District known as South-East Wynaad from the operation of Act VIII of 1865[2] (Madras) ; It is hereby enacted as follows :—

Exclusion of Malabar and South-East Wynaad from the operation of Madras Act VIII of 1865.

1. The provisions of the Madras Rent Recovery Act, VIII of 1865,[2] as amended by subsequent enactments, shall not apply to the Malabar District nor to that portion of the Nilgiri District which is known as the South-East Wynaad.

MADRAS ACT No. II OF 1896.[3]

[THE MADRAS GENERAL CLAUSES (AMENDMENT) ACT, 1896.]

[12*th November*, 1895 ; 20*th January*, 1896.]

An Act to amend the Madras General Clauses Act I of 1891.

Preamble.

WHEREAS it is expedient to amend the Madras General Clauses Act I of 1891 ; It is hereby enacted as follows :—

1. For clause (12) of section 3 of the Madras General Clauses Act I of 1891, the following shall be substituted :—

[*Vide supra p.* 501.]

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1 Short title, "The Madras Rent Recovery (Amendment) Act, 1896"—was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 15th October, 1895, p. 5 ; for Proceedings in Council, *see ibid*, dated 3rd December, 1895, p. 10.

The Governor General's assent to this Act was first published in the *Fort St. George Gazette* of 21st January, 1896.

2 Repealed by Madras Act I of 1908 which does not however extend to the Malabar District or to the South-East Wynaad.

3 Short title, "The Madras General Clauses (Amendment) Act, 1896"—was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 15th October, 1895, p. 7 ; for Proceedings in Council, *see ibid*, dated 3rd December, 1895, p. 18.

The Governor General's assent to this Act was published in the *Fort St. George Gazette* of 4th February, 1896.

MADRAS ACT No. III OF 1896.[1]

[THE MALABAR LAND REGISTRATION ACT, 1895.]

[22*nd January*, 1896; 21*st March*, 1896.]

An Act to make better provision for the registration of proprietors of estates subject to the payment of revenue direct to Government in Malabar and the Wynaad.

Preamble.

WHEREAS Regulation XXVI of 1802 provides that landed property paying revenue to Government shall be registered by the Collector; and whereas such landed property in Malabar and the Wynaad has in many cases not been registered in the names of the proprietors thereof; and whereas it is desirable for the security of the public revenue to provide a summary means whereby the Collector may ascertain such proprietors; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Malabar Land Registration Act, 1895.

Extent.

(2) It extends to the whole of the Malabar District and to that portion of the Nilgiri District which is known as South-East Wynaad.

Interpretation clause.

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

"Estate."

"estate" means any land which is subject either now or prospectively to separate assessment to land-revenue payable direct to Government:

"Registered."

"registered" means registered in the public registers maintained by the Collector in accordance with the provisions of Regulation XXVI of 1802.

Proprietor or joint proprietor of an estate may apply for registration within specified time.

3. Within such time as the District Collector may fix as hereinafter provided, any person who is or claims to be the proprietor or joint proprietor of an estate and whose name is not already registered, or any other person having authority to act on his behalf, may make application to the District Collector or to an officer empowered by him to receive such application for registration as proprietor or joint proprietor of the estate.

Collector to fix the date before which proprietor may apply for registration.

4. The District Collector shall fix for each taluk or such other local area as he may deem fit the date before which the proprietors of the estates situated therein may under the last

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th October, 1895, p. 3; for Report of the Select Committee, *see ibid*, dated 19th November, 1895, p. 1; for Proceedings in Council *see ibid*, dated 3rd December, 1895, p. 7; *ibid* dated 7th January, 1896, p. 9.

The Governor General's assent to this Act was published in the *Fort St. George Gazette* of 31st March, 1896.

preceding section apply to have their names registered, and may at any time alter any date so fixed :

Proviso.

Provided that such date or altered date shall not be less than two months or more than four months from the date of the publication of the same in the District Gazette.

Publication of date fixed by the Collector.

5. Every date fixed as provided in the last preceding section shall be notified in the Fort St. George and District Gazettes, and by notices to be posted up at the office of the District Collector, at the offices of the Revenue Divisional Officer, District Munsif, Tahsildar, Deputy Tahsildar and Sub-Registrar of Assurances within whose local jurisdiction the local area to which the date applies is stituated, and at all police-stations and amshom kachahris within such local area ; and shall also be proclaimed by beat of drum within the local area to which the date applies :

Irregularity in publication not to affect validity of proceedings.

Provided that no irregularity or omission in the publication of the notices or in the proclamations referred to in this section shall affect the validity of any proceedings under this Act.

Collector to ascertain by summary inquiry the person to be registered.

6. As soon as conveniently may be after the date so fixed, the Collector shall, on a day and at a place to be previously notified in the District Gazette whether or not an application for registration under the preceding sections has been made, and whether or not there is any dispute as to the entry to be made in the register, ascertain and determine by such summary inquiry as he thinks fit, in respect of every estate to which the date applies, the person who, in his opinion, is entitled to be registered as proprietor thereof and shall register him accordingly ; and, if any such estate shall not previously have been separately surveyed or demarcated, may cause it to be so surveyed or demarcated, or both.

Collector empowered to cause survey and demarcation of estate.

Registration in the case of estates belonging to joint proprietors, or to a religious or charitable foundation.

7. In the case of an estate belonging to joint proprietors who are members of a joint family or to a religious or charitable foundation, the estate shall be registered in the name of the managing member for the time being of such family or of the trustee, manager or superintendent for the time being of such foundation, as the case may be, who shall be described in the register as such managing member, trustee, manager or superintendent, and such registration shall be as effectual and valid as if made in the names of all the joint proprietors or of all the persons interested in such foundation.

Procedure in inquiries under section 6.

8. In any inquiry under section 6 the Collector shall hear any party to a dispute who attends on the day notified or on the day to which the inquiry may be adjourned, and shall receive such evidence as he may see fit ; and in the case of a dispute he shall record the nature of the dispute, his decision thereon, the grounds of the decision and such other particulars as he thinks fit.

Notice of the registration to be given in certain cases.

9. (1) If the person registered under section 6 or section 7 has not made an application under section 3, the Collector shall give him notice of the registration by the publication of the fact in the District Gazette and also, if his address is known, by letter sent by post registered.

Procedure when the person registered objects to the registration of receipt of such notice.

(2) If any person to whom notice has been given under this section objects to such registration, he may apply to the Collector within two months of the date of the publication of such notice in the District Gazette or within one month of the receipt of the registered letter containing such notice, whichever is later to have his name removed from the register, and the Collector shall thereupon consider his objections and shall either remove his name from the register or direct its retention therein as he may see fit; in the former case the Collector shall proceed under section 6 as if no such registration had been made.

Registration subject to revision by Collector and modification by Civil Court.

10. Every registration purporting to be made in accordance with the procedure prescribed by this Act—

(i) may be revised by the Collector on application made within three months, and

(ii) shall be subject to any decree or order which may be passed by any Civil Court of competent jurisdiction: Provided that in any suit to set aside or modify such registration or in any appeal in such suit, in which suit or appeal an order or decree is passed *ex parte* against the Secretary of State for India in Council or against the Collector, neither the said Secretary of State in Council nor the Collector shall be made liable in costs.

Collector to furnish copies of the record on payment of fees.

11. On payment of the prescribed fees the Collector shall furnish to any person who may apply for the same copies of the record of every inquiry held under this Act and of every order and entry made thereunder or under Regulation XXVI of 1802.

Saving of certain provisions of Regulation XXVI of 1802.

12. Nothing in this Act shall be deemed to affect the provisions of Regulation XXVI of 1802 in respect of the mutation in the register kept by the Collector under that Regulation of the name of the proprietor registered in accordance with the provisions of this Act when a transfer of the proprietary interest in any estate takes place, whether by purchase, inheritance, gift or otherwise.

Registered proprietor to be deemed the landholder for the purposes of Madras Revenue Recovery Act.

13. Every person registered as proprietor of an estate shall be deemed to be the landholder in respect of such estate within the meaning and for the purposes of the Madras Revenue Recovery Act, II of 1864, and no proceedings taken under the said Act against such person or against any land

registered in his name shall be deemed invalid or ineffectual by reason of any error in such registration or on the ground that such person was not the real or sole proprietor.

Joint registration of occupants and proprietors permissible in certain cases.

[1][**14.** Notwithstanding anything contained in this Act or in Regulation XXVI of 1802, the Collector may, on the application of the registered proprietor of an estate or of any person entitled to occupy such estate, register as occupant jointly with such proprietor (i) any person who is entitled by virtue of any contract with the proprietor or his predecessor in title to occupy such estate or (ii) any person who is bound by a contract with the proprietor or his predecessor in title to pay to Government the land revenue assessment on such estate. Provided that before ordering joint registration as aforesaid the Collector shall give notice to the proprietor or to the person entitled to occupy as the case may be and consider his objections. [2][Every joint registration made under this section shall remain in force so long as the occupancy continues.]]

Recovery of arrear of revenue from occupants jointly registered with proprietors.

15. In every case in which an occupant of an estate has been registered under the last preceding section and an arrear of revenue has accrued due in respect of such estate subsequent to such registration, the Collector may take proceedings in the first instance against such occupant under the provisions of the Madras Revenue Recovery Act, II of 1864 in so far as they relate to the seizure, attachment and sale of moveable property or of the crops or ungathered products of land on which an arrear is due :

Proviso.

Provided that nothing herein contained shall debar the proprietor from recovering by suit from such occupant the arrear of revenue or portion thereof which, owing to the default of such occupant, has been paid by, or recovered from him :

Provided further that nothing contained in this section shall be deemed to affect the power of the Collector to recover from the registered proprietor of such estate under any or all of the provisions of the said Act any arrear of revenue which may be due on such estate or on any other estate registered in the name of such proprietor.

Jurisdiction of Civil Courts barred.

16. Except as otherwise provided by this Act, no Civil Court shall have jurisdiction in any matter which the Collector is empowered by or under this Act to dispose of or shall take cognizance of the manner in which the Collector exercises any powers vested in him by or under this Act.

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1 Section 14 was substituted for the original section by section 2 of the Malabar Land Registration Amendment Act, 1920 (Madras Act I of 1920).

2 The words within square brackets were substituted for the words " The Collector shall state in his order the period for which such joint registration shall be in force, which period shall not extend beyond the date of the termination of the contract refered to in this section " by section 2 of the Malabar Land Registration (Amendment) Act, 1934 (Madras Act II of 1935).

Payment of costs.

17. All costs of any inquiry or proceeding held before, or any survey or demarcation directed by, the Collector under this Act shall be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs ; and in the event of such costs not being paid on demand may recover the amount thereof in the same manner as if it were an arrear of land-revenue, and pay the sum so recovered to the person entitled to receive it.

Order of District Collector final.

18. Notwithstanding anything contained in Regulations I and II of 1803 of the Madras Code, no appeal shall lie to the Board of Revenue from any order made by the District Collector under this Act.

Saving clause.

19. Subject to the provisions of section 13, nothing contained in this Act and nothing done in accordance with this Act shall be deemed to—

(*a*) preclude the Government or any person from bringing a regular suit for possession of, or for a declaration of right to, any immoveable property to which the Government or such person may deem itself, or himself entitled ; or

(*b*) render a registration under this Act an admission on the part of the Government of the right of the person in whose name such estate may be registered or an admission of the validity of the title under which the estate is held ; or

(*c*) affect the rights of the Government or of any person in respect of any estate or of any interest therein.

The Board of Revenue may make rules.

20. The Board of Revenue may, after previous publication, make subsidiary rules for the carrying out of the purposes of this Act, and may prescribe the fees, if any, to be paid for the service of summonses issued under Madras Act III of 1869[1] in connection with inquiries and proceedings under this Act.

Power to suspend operation of Act.

21. The Local Government may by notification, suspend the operation of this Act in any specified portion of the districts to which it applies, and may, by subsequent notification, bring it again into operation.

[2][**22.** The Local Government may by notification empower any officer to exercise all or any of the powers of a Collector under this Act.]

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[1] The Madras Revenue Summonses Act, 1869.

[2] Section 22 was added by section 3 of Madras Act I of 1920.

MADRAS ACT No. IV OF 1896.[1]

[THE MALABAR MARRIAGE ACT, 1896.]

[14*th March*, 1896 ; 27*th May*, 1896.]

An Act to provide a form of marriage for persons following the Marumakkatayam[2] or the Aliyasantana Law.

Preamble.

WHEREAS it is expedient to enable persons following the Marumakkatayam or the Aliyasantana Law of Inheritance to contract marriages which shall be recognized by Courts of law as legal marriages, and to provide for the issue of such marraiges ; It is hereby enacted as follows :—

Title and application.

1. This Act may be called the Malabar Marriage Act, 1896 ; and it shall be applicable to all Hindus domiciled in the Presidency of Madras following the Marumakkatayam or the Aliyasantana Law of Inheritance.

Definitions.

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

"Sambandham."

"Sambandham" means an alliance between a man and a woman by reason of which they, in accordance with the custom of the community to which they belong or either of them belongs, cohabit or intend to cohabit as husband and wife ;

"Children."

"children" means sons and daughters of parents whose Sambandham has been registered as a marriage under this Act, whether born before or after such registration ; but shall not include step-sons or step-daughters. In the case of any one whose personal law permits adoption, "children" shall include adopted sons and daughters ;

Marriage."

"marriage," with its grammatical variations and cognate expressions, means, except in section 3, clause (*a*), the last word of section 3, clause (*c*), section 15, clause (*a*), and the last word of section 15, clause (*c*), a Sambandham registered under the provisions of this Act ;

"Tarwad."

"Tarwad" means and includes all the members of a joint family with community of property governed by the Marumakkatayam or the Aliyasantana Law of Inheritance.

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 16th July 1895, p. 5 ; for Report of the Select Committee, *see ibid*, dated 4th February, 1896, p. 1 ; for Proceedings in Council, *see ibid*, dated 11th June, 1895, p. 24 ; *ibid*, dated 3rd December, 1895, p. 19 ; *ibid* dated 31st March, 1896, p. 11 ; and *ibid*, dated 21st April, 1896, p. 11.

The Governor General's assent to this Act was published in the *Fort St. George Gazette* of 16th June, 1896.

2 The Act in so far as it is applicable to Hindus following the Marumakkatayam Law of Inheretence has been repealed by section 2 of the Madras Marumakkatayam Act, 1932 (Madras Act XXII of 1933).

Conditions subject to which a Sambandham may be registered as a marriage.

3. A Sambandham between Hindus both or either of whom follow the Marumakkatayam or the Aliyasantana Law of Inheritance may be registered under this Act as hereinafter provided subject to the following conditions :—

(*a*) neither party must be subject to a personal law of marriage according to which he or she, as the case may be, cannot validly contract a marriage with the other party ;

(*b*) the relation of the parties must not be such in respect of consanguinity or affinity that a Sambandham between them is prohibited by any custom or usage applicable to the community to which they belong or either of them belongs ;

(*c*) neither party must at the date of the notice under section 5 have a husband or wife living whose Sambandham with her or him has been registered under this Act and which marriage is not null and void under section 15 or with whom she or he is otherwise legally married ;

(*d*) the parties must not belong to different communities between the members of which, according to the custom or usage applicable to either community, cohabitation is prohibited ;

(*e*) the Sambandham must have been formed in accordance with the customary ceremonies, if any, prevailing in the community to which they belong or either of them belongs ;

(*f*) a party to a Sambandham who is a minor must have obtained the consent of his or her legal guardian to the registration of the Sambandham as a marriage.

Appointment of Marriage Registrars.

4. The Local Government may appoint one or more Registrars under this Act, either by name or as holding any office for the time being, for any portion of the territory subject to its administration. The officer so appointed shall be called " Registrar of Marriages under the Malabar Marriage Act, 1896," and is hereinafter referred to as the " Registrar." The portion of territory for which any such officer is appointed shall be deemed his district.

Registration.

Notice of intention to register a Sambandham to be given to the Registrar.

5. When it is intended to register a Sambandham as a marriage under this Act, both or either of the parties shall give notice in the form (A) to this Act annexed to the Registrar within whose local jurisdiction either of the parties resided at the time when the Sambandham was formed or within whose local jurisdiction it is intended to form it.

Registrar to file such notices and to maintain the "Marriage Notice Book."

6. The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of all such notices fairly into a book to be for that purpose supplied to him by the Local Government and to be called "The Marriage Notice Book." Such book shall be open at all reasonable times without fee to all persons desirous of inspecting the same.

Copies of notice to be served on interested parties.

7. (1) Every Registrar shall, on receiving any such notice, forthwith cause a copy thereof to be affixed to a notice-board in some conspicuous place in his office; and shall then serve or cause to be served at the expense of the party giving such notice a copy thereof on the other party to the Sambandham, if both parties have not joined in giving such notice, on the guardians, if any, of the parties thereto, and on the managing members of the Tarwads or families to which they respectively belong.

Withdrawal of notice.

(2) If at any time before registration is effected the party by whom notice was given under section 5 signifies in writing to the Registrar that he withdraws such notice, the Registrar shall, thereupon, at the expense of the party withdrawing the same, communicate the fact of withdrawal to the persons mentioned in sub-section (*1*).

Persons entitled to object to registration of a Sambandham. Grounds on which objection may be taken.

8. (1) Any person entitled to receive a notice under sub-section (1) of section 7, any member of the Tarwad or family of either party, or any person having any expectancy of succession to the property, if any, of such Tarwad or family of either party may, within one month from the date of such service of notice, object to such registration on the ground that such Sambandham or registration is in contravention of the conditions prescribed in section 3.

Procedure of Registrar if objection is taken.

(2) Such objection shall be in writing signed by the person objecting and shall be presented by the objector or his duly authorized agent to the Registrar who shall file the same in his office. A copy of such objections shall at the expense of the objector be served on the party by whom notice was given under section 5.

(3) On receipt of a notice of objection [1][made under sub-section (1)], the Registrar shall not proceed to register the Sambandham as a marriage until the expiry of four months from the receipt of such notice unless such notice is in the meantime withdrawn.

Procedure if no objection is taken.

(4) If no such objection be made under this section and if neither party withdraws the notice under section 7, sub-section (*2*), such Sambandham may at any time, not

1 These words and figures were substituted for the words and figure "under section 7" by Mad. Act I of 1898.

They are to be read as if they had been substituted at the passing of this Act—Sec. s. 3 of Mad. Act I of 1898.

being less than one month nor more than six months from the service of the notice under section 7, be registered as a marriage.

Person objecting may file a suit in Civil Court.

9. Any person objecting to the intended registration of a Sambandham may, after complying with the provisions of section 8, file a suit in a competent Civil Court for a declaratory decree declaring that such registration would contravene one or more of the conditions prescribed in section 3.

Registration to be delayed pending final disposal of suit, if certificate of institution is lodged with Registrar.

10. The Judge before whom such suit is instituted shall thereupon give the person instituting the same a certificate to the effect that such suit has been filed. If such certificate be lodged with the Registrar within four months from the receipt of notice of objection, the Sambandham shall not be registered as a marriage under this Act till the decision of such Court has been given and the period allowed by law for appeals from such decision has elapsed; or if there be an appeal from such decision, till the decision of the Appellate Court has been given or such suit or appeal has been withdrawn or dismissed for default.

If such certificate be not lodged within the period prescribed in the last preceding paragraph, or if the suit by the objector be finally dismissed or withdrawn, the Sambandham may be registered as a marriage.

Declaration to be signed before registration.

11. Before a Sambandham is registered as a marriage, the parties thereto and three witnesses shall, in the presence of the Registrar, sign a declaration in the form (B) to this Act annexed. If either party is a minor, the declaration shall also be signed by his or her legal guardian, and in every case it shall be countersigned by the Registrar.

Registrar to enter certificate of marriage in the Marriage Certificate Book.

12. When such declaration has been made, the Registrar shall enter a certificate of marriage in a book to be for that purpose supplied to him by the Local Government and to be called "The Marriage Certificate Book" in the form (C) to this Act annexed, and such certificate shall be signed by the Registrar and countersigned by the parties, three witnesses and, if either party is a minor, by his or her guardian also.

Registration at a private residence.

13. Subject to such rules as may be prescribed in that behalf by the Local Government, the Registrar may attend at the private residence of the parties or of the guardian of a party who is a minor for the purpose of such declaration and marriage certificate book being signed by them in his presence.

Fees payable to Registrar.

14. The Local Government shall prescribe the fees payable for the duties to be discharged by the Registrar under this Act.

The Registrar may demand payment of any such fee before the registration of the Sambandham or performance of any other duty in respect of which it is payable.

The said marriage certificate book shall, at all reasonable times, be open for inspection. The Registrar shall furnish certified extracts from the marriage certificate book upon payment of the fee prescribed by the Local Government therefor, and such extracts shall be admissible as evidence of the due registration as marriage of the Sambandham therein mentioned.

Marriage when null and void.

15. (1) A marriage shall be null and void only—

(*a*) if either party is subject to a personal law of marriage according to which he or she, as the case may be, cannot validly contract a marriage with the other ;

(*b*) if a relationship can be traced between the parties through some common ancestor who stands to each of them in a nearer relationship than that of great-great-grandfather or great-great-grandmother, and by reason of such relationship a Sambandham between them is prohibited by any custom or usage applicable to the community to which they belong or either of them belongs.

(*c*) if either party has a husband or wife living whose Sambandham with such party has been registered as a marriage under this Act and such marriage is not null and void under clauses (*a*) and (*b*) of sub-section (1) or with whom she or he has been otherwise legally married.

(2) A marriage shall not be invalid on the ground that the Sambandham or registration contravenes any of the grounds mentioned in section 3 other than those specified in clauses (*a*), (*b*) and (*c*) of sub-section (1).

Marriage not invalid by reason of irregularity in procedure.

16. (1) No marriage under this Act shall be held invalid by reason of any irregularity in the giving of notice under section 5 or of failure to give notice under section 7 to any person entitled to receive it, or by reason of any irregularity in the publication or service of the copy of such notice or in complying with the provisions of sections 5, 11 and 12.

(2) But, when any person entitled to be served with copy of notice under section 7 has not been so served, it shall be competent to him to institute a suit within three months from the date of registration of the Sambandham for cancellation of such registration on all or any of the grounds mentioned in section 3.

Maintenance.

Maintenance of wife and children.

17. (1) The wife and children shall be entitled to be maintained by the husband or father, as the case may be. In a civil suit by the wife or children for maintenance, it shall be open to the husband or father to plead all defences open in such a suit to a Hindu governed by the ordinary Hindu law.

(2) Nothing herein contained shall affect the right of the wife and children to be maintained by the Tarwad.

Guardianship.

Guardianship of minor wife and children.

18. When a man's wife and children are minors maintained by him or his Tarwad, he shall, subject to the provision of the Guardians and Wards Act, 1890, be the guardian of his wife when she is over fourteen years of age and of his children : Provided that such guardianship shall not extend to the right and interest of his wife or children in the property of the Tarwad to which his wife and children belong.

VIII of 1890.

Divorce.

Petition for dissolution of marriage.

19. A husband and wife or either of them may present a petition for dissolution of the marriage in the Court of the District Munsif within the local limits of whose jurisdiction either the husband or wife, or in cases in which one of them alone is petitioner the respondent, has a permanent dwelling or actually and voluntarily resides or carries on business or personally works for gain at the time when the petition is presented.

[1][*Explanation.*—For the purposes of this section the Madras City Civil Court shall be deemed to be the Court of the District Munsif in respect of the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Madras.]

Notice to be given to other party, if petition is not joint.

20. A copy of such application when made by one party alone shall be served on the other party to the marriage at the expense of the petitioner.

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[1] This Explanation was inserted by s. 2 of Mad. Act I of 1898, and under s. 3 of that Act it is to be read as if it had been inserted at the passing of this Act.

Court to declare marriage dissolved on motion made within a specified period.

21. Six months after the presentation of a petition by both parties, or in cases where the application is made by one party alone six months after the service of notice under section 20, the Court shall, on the motion of the applicants or applicant, declare in writing the marriage dissolved: Provided that such motion is made within seven days after the expiration of the six months or, if the Court is closed then that such motion is made on the day on which the Court is re-opened. Upon such declaration the marriage shall be deemed dissolved from the date of such declaration; and no declaration made under this section shall be held invalid by reason of any irregularity in complying with the provisions of sections 19, 20 and 21. If no such motion is made within the time hereinbefore prescribed, the Court shall dismiss the petition.

Maintenance when claimable by divorced wife.

22. Where a marriage has been dissolved without the consent of the wife, she shall, notwithstanding such dissolution, be entitled to claim maintenance from the husband so long as she remains a Hindu, continues chaste, and does not form a Sambandham or contract a marriage: Provided that she was not guilty of adultery uncondoned before such dissolution.

Succession to separate property of a married man dying intestate.

23. Where a man following the Marumakkatayam or the Aliyasantana Law of Inheritance dies intestate in respect of his self-acquired or separate property or any portion thereof, one-half of such property or in the event of no member of his Tarwad surviving him the whole of such property shall devolve on his widow if he leaves no children, or on his children in equal shares if he leaves no widow, or on his widow and children in equal shares if he leaves both widow and children.

Succession to separate property of a married woman dying intestate.

24. Where a woman following the Marumakkatayam or the Aliyasantana Law of Inheritance dies intestate in respect of her separate or self-acquired property or any portion thereof, one-half of such property shall devolve in equal shares upon her children and, in the event of no member of her Tarwad surviving her, the whole of such property shall devolve on her husband.

Service of notices under this Act.

25. Copies of notices under sub-section (1) of section 7, notice of withdrawal under sub-section (2) of section 7, copies of objections under sub-section (2) of section 8, shall be served through such officer or Court as the Local Government may direct in this behalf, and the Law in force for the time being for the service of summons on a defendant in a civil suit shall apply to such service.

FORM A.

(*Section* 5.)

NOTICE OF MARRIAGE.

To

————, a Registrar of Marriages under Act for the District of .

I hereby give you notice that I intend registering as a marriage under Act the Sambandham between me and the other party herein named and described :—

Name.	Names of Tarwad and of the managing member thereof.	Names of the legal guardians (if any).	Rank or profession or calling.	Residence.	Age.	Caste.	The place in which the Sambandham was formed or is intended to be formed.
A.B.							
C.D.							

Witness my hand, this day of 189 .

(Signed)

FORM B.

(*Section* 11.)

DECLARATION TO BE MADE SEPARATELY BY THE BRIDEGROOM AND BY THE BRIDE.

I, A.B., hereby declare as follows :—

(1) I am a Hindu governed by the Law of Inheritance.

(2) I am years of age.

(3) The registration of my Sambandham with will not contravene any of the conditions prescribed in section 3 of Act.

(4) I consent to the registration as a Marriage of the Sambandham between me and C.D. [*or if the party making the declaration is a minor,* (4) My legal guardian consents to the registration as a marriage of the Sambandham between me and C.D.]

(5) I am aware that, if any statement in this declaration is false and if in making such statement I either know or believe it to be so false or do not believe it to be true, I am liable to imprisonment and fine.

(Signed) A.B. (the Bridegroom or Bride).

(Signed) G.H.) Three witnesses.
(,,) I.J.)
(,,) K.L.)

(A.B.) E.F. (Guardian, if any).

(Countersigned) M.N.,
Registrar of Marriages under Act for the District of

FORM C.

(*Section* 12.)

MARRIAGE CERTIFICATE.

I, E.F., certify that, on the of 189 , appeared before me A.B. and C.D., each of whom in my presence and in the presence of three witnesses, whose names are signed hereunder, made the declarations required by Act , and that the Sambandham between them was registered as a marriage under the said Act in my presence.

(Signed) E.F.,
Registrar of Marriages under Act for the District of

(Signed) A.B.
(,,) C.D.
(,,) M.N. (Guardian, if any).

(Signed) G.H.
(,,) I.J.
(,,) K.L.
} Three witnesses.

Dated the day of 189 .

MADRAS ACT No. I OF 1897.[1]

[THE MADRAS REVENUE RECOVERY (AMENDMENT) ACT, 1897.]

[12*th December*, 1896 ; 15*th January*, 1897.]

An Act to amend the Madras Revenue Recovery Act, II of 1864.

Preamble. WHEREAS it is expedient to amend Madras Act II of 1864 ; It is hereby enacted as follows :—

Amendment of section 35 of Madras Act II of 1864. **1.** In section 35 of Madras Act II of 1864, for the words "shall constitute a debt from the defaulter to him and" shall be substituted the words " or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter " ; and at the end of the same section shall be inserted the following sentence :—" such sums when paid by a *bona fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter."

Amendment of section 37 of Madras Act II of 1864. **2.** In the proviso to section 37 of Madras Act II of 1864, after the word " incumbrancer " the following words shall be inserted :—" or any person *bona fide* claiming an interest in the estate adverse to the defaulter."

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[1] Short title, " The Madras Revenue Recovery (Amendment) Act, 1897 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 17th March, 1896, p. 1 ; for Report of the Select Committee, *see ibid*, dated 16th June, 1896, p. 1 ; for Proceedings in Council, *see ibid*, dated 9th June, 1896, p. 44 ; and *ibid*, dated 12th January, 1897, p 28.

The Governor General's assent to this Act was first published in the *Fort St. George Gazette*, dated 26th January, 1897.

MADRAS ACT No. II OF 1897.[1]

[THE MADRAS HEREDITARY VILLAGE OFFICES (AMENDMENT) ACT, 1897.]

[13*th February*, 1897 ; 4*th March*, 1897.]

An Act to amend the Madras Act No. III of 1895 (the Madras Hereditary Village Offices Act, 1895).

Preamble. WHEREAS it is expedient to amend the Madras Hereditary Village Offices Act, 1895 ; It is hereby enacted as follows :—

Insertion of a new section after section 23 of Madras Act III of 1895. **1.** The following shall be deemed to have been inserted after section 23 of the Madras Hereditary Village Offices Act, 1895, at the time when that Act came into force :—

[*Vide p.* 527 *supra.*]

MADRAS ACT No. I OF 1898.[2]

[THE MALABAR MARRIAGE (AMENDMENT) ACT, 1898.]

[30*th November*, 1897 ; 20*th January*, 1898.]

An Act to amend the Malabar Marriage Act, 1896.

Preamble. WHEREAS it is expedient to amend the Malabar Marriage Act, 1896 ; It is hereby enacted as follows :—

Mad. Act IV of 1896.

Amendment of section 8. **1.** In section 8, for the words and figure " under section 7 " the words and figure " made under sub-section (1) " shall be substituted.

Addition to section 19. **2.** To section 19 of the said Act shall be added the following :—

[*Vide p.* 539 *supra.*]

Construction clause. **3.** The said Act shall be construed as if the amendments made in it by sections 1 and 2 had been inserted at the time of the passing of the said Act.

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[1] Short title, " The Madras Hereditary Village Offices (Amendment), Act, 1897 "—*see* the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 29th September, 1896, p. 1 ; for Proceedings in Council, *see ibid*, dated 12th January, 1897, p. 24 ; and *ibid*, dated 9th March, 1897, p. 32.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, dated 16th March, 1897.

[2] Short title, " The Malabar Marriage (Amendment) Act, 1898 "—was given by Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 2nd November, 1897 ; for Proceedings in Council, *see ibid*, dated 14th December, 1897, p. 19.

The Governor-General's astent to this Act was published in the *Fort St. George Gazette*, of 1st February, 1898.

MADRAS ACT No. III OF 1898.[1]

[THE MADRAS CITY POLICE (AMENDMENT) ACT, 1898.]

[31*st May*, 1898 ; 28*th June*, 1898.]

An Act to amend the Madras City Police Act, 1888.

Preamble. WHEREAS it is expedient to amend the Madras City Police Act, 1888 ; It is hereby enacted as follows :— Mad. Act III of 1888.

Addition of a proviso to section 5. **1.** To section 5 of the said Act the following shall be added, namely :—

[*Vide pp.* 424–425 *supra.*]

MADRAS ACT No. V OF 1898.[2]

[THE MALABAR WILLS ACT, 1898.]

[9*th July*, 1898 ; 3*rd August*, 1898.]

An Act to declare the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons.

Preamble. WHEREAS doubts have arisen regarding the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance ; and whereas it is expedient to remove such doubts, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. **1.** (1) This Act may be called the Malabar Wills Act, 1898.

Local extent. (2) It extends to the whole of the Presidency of Madras ; and

Commencement. (3) It shall come into force on such date [3] as the Local Government by notification shall appoint in this behalf :

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[1] Short title, "The Madras City Police (Amendment) Act, 1898"—was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 15th February, 1898, p. 1 ; for Proceedings in Council, *see ibid*, dated 3rd May, 1898, p. 37 ; and *ibid*, dated 27th May, 1898, p. 13.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, of 12th July, 1898.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 24th November, 1896, p. 2 ; for Report of the Select Committee, *see ibid*, dated 8th May, 1898 ; for Proceedings in Council, *see ibid*, dated 12th January, 1897, p. 23 ; *ibid*, dated 9th March, 1897. p. 45 ; *ibid*, dated 1st February, 1898, p. 13 ; *ibid*, dated 3rd May, 1898, p. 34 ; *ibid*, dated 12th July, 1898, p. 3.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, dated 16th August, 1898.

[3] The Act came into force on 2nd September, 1898, *see Fort St. George Gazette*, 1898, Pt. I, p. 818, Notification No. 421, 2nd September, 1898.

Provided that nothing in this Act shall be deemed to affect
XXI of 1870. the Hindu Wills Act, 1870.[1]

Interpretation clause.

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

"Minor."

(1) "minor" means any person who shall not have completed the age of eighteen years :

"Will."

(2) "will" means any legal declaration of the intentions of the testator with respect to his property which he desires to be carried into effect after his death :

"Codicil."

(3) "codicil" means an instrument made in relation to a will and explaining, altering or adding to its dispositions. It is considered as forming an additional part of the will.

PART II.

Of Wills.

Persons to whom this Part shall apply,

3. This part shall apply to persons domiciled in the Presidency of Madras who are governed by the Marumakkatayam or the Aliyasantana law of inheritance.

Persons capable of making wills.

4. Every person of sound mind and not a minor may by will dispose of property which he could legally alienate by gift *inter vivos* and shall be deemed to have been always competent so to dispose of such property.

Explanation I.—Persons who are deaf or dumb or blind are not thereby incapacitated for making a will, if they are able to know what they do by it.

Explanation II.—One who is ordinarily insane may make a will during an interval in which he is of sound mind.

Explanation III.—No person can make a will while he is in such a state of mind whether arising from drunkenness or from illness or from any other cause that he does not know what he is doing.

Will obtained by fraud, coercion or importunity.

5. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Will may be revoked, or altered.

6. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will.

Saving clause.

7. Nothing contained in section 4 shall—

(*a*) affect any right established before the commencement of this Act by a final decree of a Court of competent jurisdiction ;

(*b*) authorize a testator to deprive any persons of any right of maintenance of which, but for section 4, he could not deprive them by will;

[1] Repealed by Act XXXIX of 1925.

(*c*) affect any law of intestate succession or authorize any testator to create in property any interest which he could not have created prior to this Act.

PART III.

OF THE EXECUTION, ATTESTATION, REVOCATION, ALTERATION AND REVIVAL OF WILLS.

Persons to whom this Part shall apply.

8. This part shall apply to persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, whether they are domiciled in the Presidency of Madras or not.

Execution of wills and codicils.

9. All wills and codicils made on or after the date of the commencement of this Act within the Presidency of Madras, and all such wills and codicils made outside the said Presidency so far as relate to immovable property situated within the said Presidency, must be executed according to the following rules :—

1*st*.—The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

2*nd*.—The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

3*rd*.—The will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the will, or have seen some other person sign the will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person ; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

10. If a testator, in a will or codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such documents shall be considered as forming a part of the will or codicil in which it is referred to.

Witness not disqualified by interest or by being executor.

11. No person, by reason of interest in, or of his being an executor of, a will, is disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

Revocation of will or codicil.

12. No will or codicil, nor any part thereof, shall be revoked otherwise than by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Effect of obliteration interlineation or alteration in a will.

13. No obliteration, interlineation or other alteration made in any will after the execution thereof shall have any effect, except so far as the words or meaning of the will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; save that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

Revival of a will or codicil.

14. No will or codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil, which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the will or codicil.

Execution and revocation of will or codicil by soldiers or mariners.

15. No will or codicil made by a soldier employed in an expedition or engaged in actual warfare or by a mariner at sea and no revocation by such person of his will or codicil shall be deemed invalid by reason only of such will, codicil or revocation not being made in accordance with the provisions of this Part.

MADRAS ACT No. III OF 1899.[1]

[THE MADRAS REGISTRATION OF BIRTHS AND DEATHS ACT, 1899.]

[*3rd April*, 1899; *3rd May*, 1899.]

An Act to make provision for the Registration of Births and Deaths in Rural Tracts.

Preamble.

WHEREAS it is expedient to make provision for the registration of births and deaths in rural tracts; It is hereby enacted as follows:—

Title.

1. This Act may be called the Madras Registration of Births and Deaths Act, 1899.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 22nd November, 1898; for Proceedings in Council, *see ibid*, dated 20th December, 1898, p. 15; and *ibid*, dated 28th March, 1899, p. 16.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, dated 8th June, 1899.

Extension and withdrawal of Act.

2. The Local Government may, by notification, extend this Act, or any portion thereof, to any local area beyond the limits of the city of Madras and of the municipalities constituted under the Madras District Municipalities Act, 1884[1], and may also by notification exclude any such local area from the operation of the Act or any portion thereof. Mad. Act IV of 1884.

Interpretation-clause.

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

"Village."

"village" means any local area which for purposes of revenue-administration is now recognized as a village, or which may hereafter be declared by the Local Government to be avillage, and in which local area this Act or any portion thereofis in force;

"Registrar."

"registrar" means a person appointed registrar of births and deaths under section 5 of this Act.

District Collector to proclaim that registration will be compulsory.

4. On the publication of a notification under section 2 extending this Act or any portion thereof to any local area, the District Collector shall cause to be proclaimed in the vernacular language by notices posted at the village chavadi or other conspicuous place and by beat of drum in every village within the area so notified and by publication in the District Gazette the date from which registration of births and deaths will be compulsory in the said area.

Appointment of registrars.

5. (1) On the publication of such notification, the Collector shall appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each village, or may if he sees fit divide any village into wards and appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each ward.

Registrars to keep registers in the prescribed form.

(2) Every registrar so appointed shall keep in the prescribed form a register of births and deaths for his village or ward, as the case may be.

Registrars to live in their village or wards.

6. Every such registrar shall, unless otherwise expressly authorized by the Collector in writing, reside within the village or ward of which he is the registrar, and shall cause his name, with the addition of registrar of births and deaths for the village or ward for which he is so appointed, written in the vernacular language, to be placed in some conspicuous place on or near the outer door of his office.

District Collector to have registers printed and supplied.

7. (1) The District Collector shall cause to be printed and supplied a sufficient number of register-books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed by the Local Government.

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[1] *See* now the Madras District Municipalities Act V of 1920.

(2) A copy of such forms in the vernacular language shall be posted in some conspicuous place on or near the outer door of the office of every registrar. Copy of such forms to be posted in the office of the registrar.

8. The father of every child or, in case of the death, illness, absence or inability of the father, the midwife assisting at the birth, and in her default every adult male member of the family resident in the house in which the child was born and any person having charge of the child, or in default of the above the mother, shall, within two weeks next after the day of such birth, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 : Information of birth to be given within two weeks.

Provided that a person not required to give information in the first instance but only in default of some other person shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person : Provisos.

Provided also that, in the case of an illegitimate child, it shall in the first instance be the duty of the mother of such child to give information under this Act, and no person shall, as father for such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and unless such person shall sign the register together with the mother.

9. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses. Information to be given respecting new-born child found exposed.

10. The nearest adult male relative present at the death, or in attendance during the last illness, of any person dying in a village, or, in case of the default of such relative, every adult male person present at the death, or, in case of their default, the occupier of the house, or in his default every adult male person living in the house in which such death has happened, or, in case of the default of such inmate, the person undertaking the disposal of the corpse shall, within four days from the date of death, give or cause to be given either orally or in writing, information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 : Information of death to be given within four days.

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person.

Head of the village bound to give information regarding other deaths.

11. In case any person is found dead in a village under circumstances not covered by section 10, it shall be the duty of the head of the village to give forthwith, to the best of his knowledge and belief, to the registrar, such information of the particulars required to be registered concerning such death as the informant possesses.

In case of births and deaths in hospital, Medical officer in charge to send notice to the registrar.

12. Notwithstanding anything contained in sections 8 and 10 of this Act,—

(1) in case of a child being born or of a person dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send to the registrar a notice in writing of the occurrence of such birth or death containing the several particulars required to be entered in the forms prescribed under section 7 ;

In case of births and deaths in choultries, etc., keeper or person in charge to give the information required.

(2) in case of a child being born or of a person, dying in any choultry, chatram, hotel, boarding house, lodging-house, tavern, arrack or toddy shop or place of public resort, it shall be the duty of the owner, keeper or person in charge thereof to give the information required under sections 8 and 10 in the manner specified therein within forty-eight hours of the birth or death, as the case may be.

A person giving oral information to write his name in the register.

13. Every person who has orally given to a registrar any information required under this Act shall write 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, these particulars being in such case entered by the registrar.

When registrar to give extract free of charge.

14. The registrar shall, as soon as the registration of the birth of a child has been completed, give on application, free of all charge, to the person who gives information of the birth an extract under his hand from the register relating to such birth.

Registrar to register information without fee or reward and inform himself of every birth and death.

15. Every registrar shall without fee or reward register all information furnished to him under sections 8 to 13, and it shall also be his duty to inform himself carefully of every birth and of every death which takes place in his village or ward, and he shall ascertain and register, as soon as conveniently may be after the event, the particulars required to be registered according to the forms prescribed under section 7 touching every such birth and death as the case may be, which has not already been registered.

Entry of name of child.

16. When the birth of any child has been registered without name, the parent or guardian of such child may, within twelve months next after the registration of birth, require the registrar to enter in the register the name of such child; and the registrar shall thereupon enter the name, and shall initial and date the entry.

Search of birth and death registers.

17. Subject to any rules which the Local Government may make under section 20, any person may at all reasonable times, on payment of a fee of four annas for each visit, search any register of births and deaths, and may on payment of a further fee of four annas obtain an extract from such register relating to any birth or death registered therein.

All extracts given under this section shall be certified as provided in section 76 of the Indian Evidence Act, 1872, I of 1872, and may be produced in proof of the entries of which they purport to be copies.

Penalty for omission to give information, etc.

18. Any person who—

(1) fails without reasonable cause to give any information which it is his duty to give under sections 8, 9, 10, 11 and 12 of this Act; or

(2) gives, or causes to be given, for the purpose of being inserted in any register of births or deaths, any information which is false and which he knows or believes to be false touching any of the particulars required to be known and registered; or

(3) refuses to write his name, description and place of abode or to put his mark in the register if required by section 13;

shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees.

Prosecutions not to be instituted except under the order of a Tahsildar or an officer superior to him.

19. (1) No prosecution in respect of any offence punishable under this Act shall be instituted except under the order of the Tahsildar having juisdiction over the village in which the offence was committed or of an officer to whom the Tahsildar is subordinate.

The District Collector or any officer generally or especially empowered by him in this behalf may stay such prosecution.

Accused persons may appear and be defended by agents.

(2) In prosecutions for offences under the provisions of this Act, the accused person may appear by an agent and may of right be defended by an agent:

Provided that the Magistrate may at any stage of the proceedings, for reasons to be recorded in writing, direct the personal attendance of the accused.

Power of Local Government to frame forms and make rules.

20. The Local Government may, after previous publication, make rules—

(1) prescribing the forms of registers of births and deaths required to be kept under this Act;

(2) for the inspection and examination of the registers maintained under section 5 ;

(3) for the conduct of the duties of the registrar during his absence on other duty or on account of illness or other cause ;

(4) for the custody, production and transfer of the registers and other records kept by registrars ;

(5) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths ;

(6) generally to carry out the provisions of this Act.

MADRAS ACT No. IV OF 1899.[1]

[THE MADRAS COURT OF WARDS (AMENDMENT) ACT, 1899.]

[22*nd June*, 1899 : 3*rd July*, 1899.]

An Act to amend Madras Regulation V of 1804.

[*Repealed except in the Scheduled Districts.*]

MADRAS ACT No. I OF 1900.[2]

[THE MALABAR COMPENSATION FOR TENANTS IMPROVEMENTS ACT, 1899.]

[4*th December*, 1899 ; 3*rd January*, 1900.]

An Act to secure to tenants in the Malabar district compensation for improvements.

Preamble. WHEREAS it is expedient to amend the law relating to compensation for improvements made by tenants in the Malabar district ; It is hereby enacted as follows :—

Short title and local extent. **1.** This Act may be called the Malabar Compensation for Tenants Improvements Act, 1899 ; and it shall be applicable to the whole of the Malabar district.

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[1] Short title, "The Madras Court of Wards (Amendment) Act, 1899" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 31st January, 1899, p. 4 ; for Proceedings in Council, *see ibid*, dated 16th May, 1899, p. 55 ; and *ibid*, dated 1st August 1899, p. 16.

The Act has been repealed except in Scheduled districts by Mad. Act I of 1902.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 13th December, 1898 ; for Report of the Select Committee, *see ibid*, dated 1st August, 1899, p. 1 ; for Proceedings in Council, *see ibid*, dated 14th February, 1899, p. 9 ; and *ibid*, dated 12th December, 1899, p. 16.

The Governor-General's assent to this Act was published in the *Fort St George Gazette*, dated 9th January, 1900.

2. [*Repeal of Act I of* 1887.] *Rep. by the Repealing and Amending Act,* 1901 (*XI of* 1901).

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

(1) "tenant," with its grammatical variations and cognate expressions, includes a person who as lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be lessee, sub-lessee, mortgagee or sub-mortgagee of land is in possession thereof, or who, with the *bona fide* intention of attorning and paying the customary rent to the person entitled to cultivate or let waste-land, but without the permission of such person, brings such land under cultivation and is in occupation thereof as cultivator: "Tenant."

(2) "ejectment" includes redemption or recovery of possession of land mortgaged: "Ejectment."

(3) "improvement" means any work or product of a work which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding was let, mortgaged or occupied. "Improvement."

4. Until the contrary is shown the following works or the products of such works shall be presumed to be improvements for the purposes of this Act — What are presumed to be Improvements.

(*a*) the erection of dwelling houses, buildings appurtenant thereto, and farm buildings;

(*b*) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;

(*c*) the preparation of land for irrigation;

(*d*) the conversion of one-crop into two-crop land;

(*e*) 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 of waste land which is culturable;

(*f*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*g*) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto;

(*h*) the planting or protection and maintenance of fruit-trees, timber-trees and other useful trees and plants.

5. (1) Every tenant shall on ejectment be entitled to compensation for improvements which have been made by him, his predecessor in interest, or by any person not in occupation at the time of the ejectment who derived title from either of them, and for which compensation has not already been paid; and every tenant to whom compensation is so due shall, notwithstanding the determination of the Tenant entitled to compensation on ejectment.

tenancy or the payment or tender of the mortgage-money (if any), be entitled to remain in possession until ejectment in execution of a decree or order of Court.

(2) A tenant so continuing in possession shall during such continuance hold as a tenant subject to the terms of his lease or of the mortgage, as the case may be.

Decree in ejectment to be conditional on payment of amount of compensation ascertained under this Act or the difference between it and the amount, if any, adjudged to the plaintiff from the defendant.

6. (1) In a suit for ejectment instituted against a tenant in which the plaintiff succeeds and the defendant establishes a claim for compensation due under section 5 for improvements, the Court shall ascertain as provided in sections 9 to 18 the amount of the compensation and shall pass a decree declaring the amount so found due and ordering that, on payment by the plaintiff into Court of the amount so found due and also the mortgage-money (if any), the defendant shall put the plaintiff into possession of the land with the improvements thereon.

(2) If in such suit the Court finds any sum of money due by the defendant to the plaintiff for rent or otherwise in respect of the tenancy, the Court shall set-off such sum against the sum found due under sub-section (1), and shall pass a decree declaring as the amount payable to him on ejectment the amount (if any) remaining due to the defendant after such set-off.

Compensation for subsequent improvements and revaluation, if necessary, of improvements at the time of ejectment.

(3) The amount of compensation for improvements made subsequent to the date up to which compensation for improvements has been adjudged in the decree, and the revaluation of an improvement for which compensation has been so adjudged, when and in so far as such re-valuation may be necessary with reference to the condition of such improvement at the time of ejectment as well as any sum of money accruing due to the plaintiff subsequent to the said date for rent or otherwise in respect of the tenancy, shall be determined by order of the Court executing the decree and the decree shall be varied in accordance with such order.

(4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of a decree within the meaning of clause (*c*) of section 244 of the Code of Civil Procedure [1].

Tenant may remove buildings, works or trees not deemed improvements, within a time to be fixed.

7. Whenever a Court passes a decree or order for ejectment against a tenant and such tenant has erected any building, constructed any work or planted any tree which the Court finds is not an improvement for which compensation can be claimed, but which the Court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within a time to be fixed by the Court in its decree or order.

[1] See now section 47 of the Code of Civil Procedure, 1908 (Act V of 1908).

Powers to make rules for appointment of assessors, etc.

8. The Local Government may, from time to time, by notification in the Fort St. George and Malabar District Gazettes, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 6 for an improvement, such number of assessors as the Local Government thinks fit, determining the qualifications of those assessors, the mode of selecting them, the fee payable to them, and the procedure to be followed in case of a difference of opinion between the judge and one or more of such assessors.

Improvement producing an increase in the value of the annual net produce.

9. (1) When the improvement is not an improvement to which section 13 applies and has caused an increase in the value of the annual net produce of the holding, the Court shall determine, as nearly as may be, the average net money value of such increase and the number of years during which such increase may reasonably be expected to continue, and shall then ascertain the present value, at 6 per cent of an annuity equal to such money value for such number of years, and also the cost of making the improvement determined in the manner prescribed in section 11.

(2) If the present value of the annuity does not exceed the cost of making the improvement, the present value shall be the compensation to be awarded.

(3) If the present value of the annuity exceeds the cost of making the improvement, the compensation to be awarded shall be the cost together with one-half of the excess.

Explanation.—The value of the net produce means the amount remaining after deducting from the value of the gross produce, the cost of cultivation and the Government assessment and cesses.

Improvement consisting of trees or plants spontaneously grown during tenancy or sown or planted by tenants.

10. When the improvement is not an improvement to which section 9 applies, but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 5, the compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realize, if sold by public auction to be cut and carried away.

Other kinds of improvements.

11. When the improvement is not an improvement to which section 9 or 10 applies, the compensation to be awarded shall be the cost of the labour, including supervision thereof, and of the materials, together with other expenditure, if any, which would at the time of the valuation be required to make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

Value of improvement to be ascertained in the way most favourable to the tenant.

12. Notwithstanding anything contained in sections 9, 10 and 11, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

Illustrations.

(*a*) The compensation to be awarded for a jack tree as a fruit-tree is ascertained under section 9 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 10 to be Rs. 10.

(*b*) The compensation to be awarded for an immature casuarina plantation is ascertained under section 10 to be Rs. 20, but under section 11 to be Rs. 100.

In each case, the Court shall award the higher amount.

Improvement consisting in the protection and maintenance of trees and plants not sown or planted by tenants and of trees and plants spontaneously grown prior to tenancy.

13. When the improvement consists in the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons mentioned in section 5, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 11.

Power to frame tables of maximum and minimum rates of compensation.

14. The Local Government may prepare for the whole or any part of the Malabar district tables showing the maximum and the minimum rates of compensation to be awarded under this Act for all or any class of improvements, and when such tables have been published the amount awarded as compensation under sections 9, 10, 11 and 12 shall not, except where the Court is satisfied that there has been exceptional care, skill or enterprise on the part of the tenant, exceed such maximum rates, nor shall it in any case be less than such minimum rates.

Power to prepare tables of prices of products, the cost of cultivating paddy, planting, protecting and maintaining trees and plants.

15. (1) For the purpose of determining the amount of compensation to be awarded under this Act, the Local Government may prepare tables for the whole or any part of the Malabar district showing all or any of the following matters :—

(*a*) the price of cocoanuts, arecanuts, pepper and paddy ;

(*b*) the cost of—

(i) cultivating and harvesting a crop of paddy ;

(ii) planting, protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree, and a pepper vine until the tree or vine is in bearing ;

(iii) protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree and a pepper vine for one year when in bearing.

(2) The tables prepared under this section shall on publication be receivable in evidence, and the rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary is proved : Provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 16.

Such tables to be presumptive evidence that the prices and costs therein mentioned are correct.

16. In respect of any product for which no table showing the price has been published, and whenever the presumption under section 15 as to price is sought to be rebutted, the Court shall adopt as the money value, for the purpose of awarding compensation under section 9, the average price as nearly as may be ascertainable, in the taluq where the land is situated, for a period of ten years immediately preceding the institution of the suit.

Value to be ascertained where no table has been prepared or the correctness of the price mentioned in the table is disputed.

17. The tables prepared under this Act shall be published in English and Malayalam in the Fort St. George and Malabar District Gazettes, and shall be kept publicly posted in the Courts having jurisdiction over the area to which the tables apply.

Tables to be published.

The Local Government may by like publication cancel or vary from time to time the tables so published.

18. When trees are planted in excess of the following scale, the Court, if satisfied that, in the circumstances of the particular case, the land is over planted, may, notwithstanding anything hereinbefore contained, either refuse to grant any compensation, or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature :—

Compensation may be refused where trees have been over-planted.

Cocoanut trees	120 per acre.
Arecanut trees	720 ,,
Jack trees	60 ,,

In the case of a mixed garden each tree shall be allowed a proportionate fraction of an acre according to the above scale.

19. Nothing in any contract made after the first day of January, 1886, shall take away or limit the right of a tenant to make improvements and to claim compensation for them in accordance with the provisions of this Act.

Contracts affecting tenant's right to make improvements.

Provided that nothing herein contained shall affect any agreement in writing registered made after the effecting of the improvements settling the amount of compensation due therefor at the date of such agreement.

Saving clause.

20. Nothing in this Act shall be construed as taking away the right of any person who may be entitled by law or custom to claim compensation for any improvements other than those dealt with under the provisions of this Act.

MADRAS ACT No. II OF 1900.

[THE MADRAS COFFEE-STEALING PREVENTION ACT, AMENDMENT ACT, 1900.]

[16*th March*, 1900 ; 28*th April*, 1900.]

An Act to amend the Madras Coffee-stealing Prevention Act, 1878.

Preamble.

WHEREAS it is expedient to amend the Madras Coffee-stealing Prevention Act, 1878 (hereinafter referred to as the said Act); It is hereby enacted as follows :— Mad. Act VIII of 1878

Title.

1. This Act may be called the Madras Coffee-stealing Prevention Act, Amendment Act, 1900.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context, the expressions "coffee estate" and "coffee" shall respectively have the same meaning as in the said Act.

Insertion of a new section after section 5.

3. After section 5 of the said Act, the following section shall be inserted :—

[*Vide page* 332 *supra*.]

Amendment of section 6.

4. In section 6 of the said Act, between the words "required" and "by" insert the words "to be kept," and in the same section, for the word and figure "section 5" substitute the words and figures "sections 5 and 5 A" and omit the words "to be kept by persons purchasing coffee."

Amendment of section 8.

5. In section 8 of the said Act, after the figure "5" the figure and letter "5 A" shall be inserted.

Amendment of section 9.

6. In section 9 of the said Act, after the words "green gathered" the words "parchment or cherry dried" shall be inserted.

Amendment of section 13.

7. In section 13 of the said Act omit the words "or add" between the words "substitute" and "corporal" and the words "or to" between the words "for" and "the"; and in the proviso to the same section omit the words "or additional" between the words "substituted" and "punishment."

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 26th September, 1899, p 2; for Report of the Select Committe, *see ibid*, dated 28th September, 1899, p. 1; for Proceedings in Council, *see ibid*, dated 12th December, 1899, p. 42; and *ibid*, dated 20th March, 1900, p. 72.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, dated 15th May, 1900.

Amendment of section 14

8. In the proviso to section 14 of the said Act, between the word "may" and the word "grant" insert the words "for reasons to be recorded in writing."

Insertion of three new sections after section 14.

9. After section 14 of the said Act the following sections shall be added, namely :—

[*Vide page* 334 *supra.*]

MADRAS ACT No. IV OF 1900.[1]

[1*st May*, 1900 ; 26*th May*, 1900.

An Act to amend the Madras Proprietary Estates Village-service Act, 1894, and the Madras Survey and Boundaries Act, 1897.

Mad. Act II of 1894. Mad. Act IV of 1897.

Preamble.

WHEREAS it is expedient to amend the Madras Proprietary Estates Village-service Act, 1894, and the Madras Survey and Boundaries Act, 1897 ; It is hereby enacted as follows :—

1. [*Amendment of the definition of "proprietor" in section 4 of Madras Act II of* 1894.] *Virtually repealed by Mad. Act IV of* 1911, *s.* 2.

[**2.**] *Amendments relating to Madras Act IV of* 1897.

[**3.**] *Not printed as Madras Act IV of* 1897 *has been repealed by Madras Act VIII of* 1923.

MADRAS ACT No. V OF 1900.[2]

[THE MADRAS IRRIGATION CESS (AMENDMENT) ACT, 1900.]

[10*th May*, 1900 ; 10*th August*, 1900.]

An Act to amend Madras Act VII of 1865.

Preamble.

WHEREAS it is expedient to amend Madras Act VII of 1865 ; It is hereby enacted as follows :—

New section substituted.

1. Sections 1 and 4 of Madras Act VII of 1865, hereinafter referred to as the said Act, shall be read and constructed as

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1 Short title, "The Madras Proprietary Estates and Survey (Amendment) Act, 1900" was given by the Repealing and Amending Act, 1901 (XI of 1901), First Schedule.

For Statement of Objects and Reasons, *see Fort St George Gazette* Supplement, dated 10th October, 1899, p. 1; for Proceedings in Council *see ibid*, dated 12th December, 1899, p. 42; *ibid*, dated 29th May 1900, p. 171.

The Governor-General's assent to this Act was first published in the *Fort St. George Gazette* of 4th September, 1900.

2 Short title, "The Madras Irrigation Cess (Amendment) Act, 1900"— was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 8th March 1898, p. 22 ; for Report of the Select Committee, *see ibid*, dated 3rd March, 1900, p. 1 ; for Proceedings in Council, *see ibid*, dated 3rd May, 1898, p. 34 ; *ibid*, December 12th, 1899, p. 16; *ibid*, June 12th, 1900, p. 176.

for sections 1 and 4.

if at the time of the passing of the said Act there were and had been inserted in lieu of the said sections the following, viz.—

[*Vide pp.* 306–307 *supra.*]

Limitation on the retrospective effect of section 1.

2. No water cess which would not have been leviable if this Act had not been passed shall be hereafter levied for any period prior to the 1st July, 1899.

New rules, etc., under section 1 to be made after previous publication.

3. All rules that may hereafter be prescribed by Government under section 1 of the said Act and any alterations or amendments that may hereafter be made in the rules made under that section which are now in force shall be made after previous publication.

THE MADRAS COURT OF WARDS ACT, 1902.

(MAD. ACT I OF 1902.)

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS

1 Short title and extent.
2 Laws repealed.
3 Jurisdiction of High Court saved.
4 Definitions.

CHAPTER II.

THE COURT OF WARDS.

5 Court of Wards.
6 Control of Local Government.
7 (1) Distribution of business.
(2) Secretary may sign for Court.
8 Powers of Court how exercised.

CHAPTER III.

ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY.

9 Disqualification.
10 Immediate protection of disqualified heirs.
11 Recovery of expenditure.
12 Report by District Collector.

SECTIONS.

13 Proprietor to be given opportunity to be heard and to adduce evidence.

14 Report by Court.

15 Local Government may declare proprietor disqualified, and direct Court to assume superintendence.

16 Proprietor not to be declared disqualified under section 9 (*d*) unless on ground of public interests.

17 Provision to meet case of undivided Hindu families and co-sharers.

18 Application by proprietor himself.

19 (1) Notification of assumption of superintendence.
(2) Consequences of such notification.

CHAPTER IV.

MANAGEMENT AND GUARDIANSHIP.

20 Collector to take charge of ward's property.

21 Powers of Collector in so doing.

22 Allowances for ward and family.

23 Custody, residence, education and marriage of ward or minor relatives.

24 Appointment, etc., of managers and guardians.

25 Collector to act if there are none.

26 Who may and may not be guardians.

27 Duties of guardian.

28 Powers of manager.

29 Duties of manager.

30 Employees of Court deemed to be public servants.

31 Managers and other servants to be deemed to be public accountants and amenable to Regulation IX of 1822.

32 Regulation of expenditure.

33 Surplus how to be dealt with.

34 Disabilities of wards.

35 Powers of Court as to property under its superintendence.

36 Establishments and distribution of charges.

CHAPTER V.

ASCERTAINMENT AND SETTLEMENT OF DEBTS.

37 Notice calling upon claimants to notify claims.

38 Claimants to furnish full particulars and documents.

39 Pecuniary claim of Government, etc., not affected.

40 Claims admitted and disallowed.

41 Claims not notified cease to carry interest, etc.

42 Inadmissibility in evidence of documents not produced.

SECTIONS.

43 When mortgagee in possession may be dispossessed.

44 Provision regarding leases for insufficient consideration.

45 Execution of decree to be transferred to Collector in certain cases.

46 Collector to whom execution of decrees has been transferred to cease to discharge functions of Collector under the Act.

47 Certain provisions of Civil Procedure Code to be applicable to execution of decrees transferred to Collector.

CHAPTER VI.

SUITS.

48 Exercise of discretion not to be questioned in civil court.

49 Suit not to be instituted until after notice to Collector.

50 Suit or proceeding by or against ward.

51 Cost against Collector or manager how paid.

52 Suits must be authorized by Court.

53 Adjudication of civil disputes between two or more wards.

CHAPTER VII.

RELEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE.

54 Release from superintendence.

55 Release of estate taken under management under section 18 when debts cannot be liquidated within reasonable time.

56 When estate taken under management under section 18 may be made over to proprietor.

57 Option to retain superintendence in certain cases.

58 Disabilities of proprietor in such cases.

59 Appointment of guardian before release.

60 Recovery of expenses after release.

61 Procedure when succession to ward's property is disputed.

62 Notification of release from superintendence.

CHAPTER VIII.

MISCELLANEOUS.

63 Powers of Court in regard to religious endowments of which ward is hereditary trustee or manager.

64 Powers of persons holding inquiries.

65 Property under charge of Court not liable to sale for arrears.

66 Power to make rules.

CHAPTER IX.

PENALTIES.

67 Abetting the unsanctioned marriage of a ward, etc.

MADRAS ACT No. I OF 1902.[1]

[THE MADRAS COURT OF WARDS ACT, 1902.]

[*22nd February, 1902 ; 7th May, 1902.*]

An Act to consolidate and amend the law relating to the Court of Wards in the Madras Presidency.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the presidency of Madras ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Madras Court of Wards Act, 1902. Short title.

It extends to the Presidency of Madras exclusive of the scheduled districts. Extent.

Mad. Reg. II of 1803. Mad. Reg. V of 1804. XXI of 1855. Mad. Act IV of 1899.

2. Section 25 of the Madras Collectors Regulation, 1803, the Madras Court of Wards Regulation, 1804, the Madras Minors Act, 1855, and the Madras Court of Wards (Amendment) Act, 1899, are hereby repealed. Laws repealed.

3. Nothing in this Act shall be construed to affect or in any way to derogate from any power possessed by the High Court of Madras over the persons and estates of infants, idiots and lunatics. Jurisdiction of High Court saved.

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

"The Court" means the Court of Wards. "Court."

"Ward" means a person who has been made a ward of the Court under section 19. "Ward."

IX of 1875. VIII of 1890.

"Minor" means a person who, under the provisions of the Indian Majority Act, 1875, as amended by section 52 of the Guardians and Wards Act, 1890, has not attained majority. "Minor."

"Proprietor" means a person who owns or has a life interest in land either solely or as a co-sharer. "proprietor."

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1901, Extraordinary, p. 15 ; for Report of the Select Committee, *see ibid*, 1902, Extraordinary, p. 1 ; and for the Proceedings in Council, *see ibid*, 1901, pt. IV, pp. 44, 74, *ibid*, 1902, pt. IV, pp. 46, 89, 123.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 27th May, 1902.

CHAPTER II.

THE COURT OF WARDS.

Court of Wards.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends, and for the purposes of this Act, Collectors shall be subject to the control of the Court.

Control of Local Government.

6. The Court of Wards shall be subject to the control of the Local Government, and the Local Government may, if it thinks fit, revise, modify or reverse any order passed or proceedings taken under this Act, whether a petition is presented against such order or proceeding or not.

Distribution of business.

7. (1) Sections 2, 3 and 4 of the Madras Board of Revenue Act, 1894, shall so far as may be, apply to the Board of Revenue when exercising jurisdiction as the Court of Wards. Mad. Act. I of 1894.

Secretary may sign for Court.

(2) It shall in all cases be lawful for a Secretary of the Board of Revenue to sign on behalf of the Court.

Powers of Court how exercised.

8. The Court may exercise all or any of the powers conferred on it by this Act through the District Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose ; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred.

CHAPTER III.

ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY.

Disqualification.

9. The following proprietors shall be deemed to be disqualified for the management of their property :—

(*a*) Minors.

(*b*) Women declared by the Local Government to be incapable of managing their property.

(*c*) Proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property.

(*d*) Proprietors declared by the Local Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

Immediate protection of disqualified heirs.

10. (1) Whenever a Collector receives information that a proprietor of land situated in his division or district has died, and he has reason to believe that the heir of such proprietor is, or should be declared to be, disqualified under section 9,—

(*a*) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir ; and

(*b*) if the heir be a minor he may direct that the person, if any, having custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper ;

(*c*) female minors who ought not to be compelled to appear in public shall be produced in accordance with the manners and the customs of the country.

(2) If the Collector taking action under sub-section (1) is not the District Collector, he shall report the matter forthwith to the District Collector, who shall decide whether to direct the Collector to withdraw, or himself to report the matter to the Court as provided in section 12.

Recovery of expenditure.

11. All expenses incurred by a Collector, acting under section 10, shall, whether the property is afterwards taken under the superintendence of the Court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as an arrear of land-revenue.

Report by District Collector.

12. Whenever any District Collector, after making such inquiry as he deems necessary, has reason to believe that any proprietor in his district is, or should be declared to be, disqualified under section 9, he shall submit a report to the Court setting forth all the circumstances of the case : Provided that in the case of proprietors of land on which the annual revenue payable to Government is less than Rs. 10,000 or of which the annual rent value as defined in the Madras Local Boards Act, 1884 [1], is less than Rs. 20,000, the District Collector need not report the case to the Court unless he is of opinion that the Court ought to assume the superintendence of the property : Provided also that the Court or the Local Government may call for a report on any case if it thinks fit.

Mad. Act V of 1884.

Proprietor to be given opportunity to be heard and to adduce evidence.

13. (1) Before reporting to the Court under section 12 that a proprietor ought to be declared to be disqualified under clause (*b*) or (*d*) of section 9, the District Collector shall give notice to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence.

(2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the Local Government.

Report by Court.

14. The Court shall consider the Collector's report and except in the case of female proprietors, not being minors, whom it decides to leave in charge of their property, shall

[1] *See* now, Madras Act XIV of 1920.

report the case to the Local Government with its recommendation and pending the receipt of orders shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietor in question.

Local Government may declare proprietor disqualified and direct Court to assume superintendence.

15. The Local Government, on receipt of the Court's recommendation, may in any case falling under clause (*b*) or (*d*) of section 9 declare the proprietor to be disqualified, and in any case falling under section 9 may order the Court to assume the superintendence of the person or property of the proprietor or of both.

Proprietor not to be declared disqualified under section 9 (*d*) unless on ground of public interests.

16. The Local Government shall not declare any proprietor to be disqualified under clause (*d*) of section 9 unless satisfied that it is expedient in the public interests that his property should be managed by the Court, and statement to this effect shall be inserted in the declaration made by the Local Government as provided in section 15.

Provision to meet case of undivided Hindu families and co-sharers.

17. (1) The Local Government shall not order the Court to take the property of an undivided Hindu family under its superintendence unless all the co-parceners are, or are declared to be, disqualified under section 9.

(2) When two or more proprietors are co-sharers otherwise than as co-parceners in an undivided Hindu family and one of such co-sharers is, or is declared to be, disqualified under section 9, the Local Government may order the Court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition.

Application by proprietor himself.

18. A proprietor may make application to the Local Government to have his property placed under the superintendence of the Court, and the Local Government may, on being satisfied that it is expedient in the public interests that such property should be managed by the Court, make a declaration to that effect and order the Court to assume the superintendence of such property.

Notification of assumption of superintendence.

19. (1) Whenever under section 15 or 18 the Local Government orders the Court to take under its superintendence the person or property of a proprietor or both, such order of the Local Government, together with any declaration made under the aforesaid sections, shall be notified in the *Fort St. George Gazette* and also in the Gazette of the district in which such property or any portion thereof is situate. The notification shall specify the District Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both as the case may be.

(2) Such proprietor shall be deemed to have become a ward under the Court, from the date of the said order of the Local Government and the superintendence of his person or property or of both shall take effect from the said date, and as to property shall extend to all moveable and immoveable property belonging to him at the date of the order, or to which he shall afterwards become in any way entitled whilst he continues under such superintendence. Consequences of such notification.

Provided that it shall be in the discretion of the Court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the Local Government under section 15 or 18.

CHAPTER IV.

MANAGEMENT AND GUARDIANSHIP.

20. When the Court has assumed the superintendence of the property of a ward, the District Collector specified in the notification under section 19 or if so directed by the Court, the Collector of the district in which any part of the property is situated shall take possession and custody of such property on behalf of the Court. Collector to take charge of ward's property.

21. It shall be lawful for such Collector :— Powers of Collector in so doing.

(*a*) to order any person in possession of any moveable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of such ward, to deliver up such moveable property, accounts or papers ;

(*b*) in case there is reason to believe that any moveable property to the possession of which the ward is entitled or any accounts, or papers relating to the property of the ward are to be found in any room, box, or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorize the same to be broken open for the purpose of searching for such property, accounts or papers ;

(*c*) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate ;

(*d*) to order all holders of tenures and undertenures on the ward's property to produce their titles before him.

Allowances for ward and family.

22. The Court may determine what sums shall be allowed for the expenses of the ward and of his family and dependants.

Custody, residence, education and marriage of ward or minor relatives.

23. The Court may make such orders and arrangements, as to it may seem fit, in respect of the custody, residence, education and marriage—

(*a*) of any ward whose person is for the time being under its superintendence,

(*b*) of any minor child, minor brother, or minor sister of such ward, who, in the opinion of the Court, is entitled to maintenance at the charge of the ward's estate,

(*c*) of the ward's next male heir being a minor and also so entitled to maintenance.

Appointment, etc., of managers and guardians.

24. (1) The Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed :

Provided that it shall not appoint a guardian for any person who has become a ward in pursuance of an order under section 18.

(2) Any appointment made under this section shall terminate when the Court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager, has been appointed.

Collector to act if there are none.

25. If no manager of the property or guardian of the person of a ward is appointed by the Court, or the office is temporarily vacant, the District Collector specified in the notification under section 19, or any other Collector whom the Court may appoint in this behalf, shall be competent, under the control of the Court, to do anything that might be done by such manager or guardian.

Who may and may not be guardians.

26. (1) No person being the next legal heir of a ward, or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward :

Provided that the mother of a ward, or any person appointed guardian by the will of a person authorized to make such appointment may be appointed guardian by the Court at its discretion.

(2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above seven years of age, unless, in any case, the Court, for special reasons, shall direct otherwise :

Provided that no guardian shall ordinarily be appointed for a female ward if she has an adult husband.

27. A guardian appointed under section 24 shall be charged with the custody of the ward, and, subject to the control of the Court, shall make suitable provision for his maintenance and health, and, if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall— Duties of guardians.

(*a*) give such security (if any), as the Court thinks fit, for the due performance of his duty ;

(*b*) submit such accounts as the Court may direct ;

(*c*) pay the balances due from him thereon ;

(*d*) continue liable to account to the Court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship ;

(*e*) apply for the sanction of the Court to any act which may involve expense, not previously sanctioned by the Court ;

(*f*) be paid such allowance out of the property of the ward as the Court thinks fit.

28. Every manager appointed by the Court shall have power, subject to the control of the Court, to collect the rents of land placed under his charge, as well as all other money due to the ward, and to grant receipts therefor, and may, under the orders of the Court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorized by the Court to do for the good management of the property. Powers of manager.

29. Every manager appointed by the Court shall manage, the property placed under his charge diligently and faithfully and shall— Duties of manager.

(*a*) give such security, if any, as the Court thinks fit, duly to account for what he may receive in respect of the rents and profits of the property under his charge ;

(*b*) keep such accounts in such form and submit them at such times as the Court may direct ;

(*c*) deal with all moneys received by him in such manner as the Court may direct ;

(*d*) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by the Court ;

(*e*) be responsible for any loss occasioned to the property by his negligence or wilful default ;

(*f*) continue liable to account to the Court after he has ceased to be manager for his receipts and disbursements during the period of his managership ;

(*g*) be paid such allowance out of the property of the ward as the Court thinks fit.

Employees of Court deemed to be public servants.

30. Every guardian, manager, or other servant of the Court, shall be deemed to be a "public servant" within the meaning of sections 161, 162, 163, 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 section, be deemed to include the Court. XLV of 1860.

Manager and other servants to be deemed to be public accountants and amenable to Regulation IX of 1822.

31. Every manager or other servant of the Court entrusted with the receipt, custody or control of moneys or securities for money on behalf of the Court or with the management of any property under its superintendence shall be deemed to be a public accountant within the meaning of the Public Accountants' Default Act, 1850, and shall be amenable to the provisions of the Madras Revenue Malversation Regulation, 1822, as if he were a native servant of the Collector's public establishments. XII of 1850. Mad. Reg. IX of 1822.

Regulation of expenditure.

32. Unless the Court otherwise directs, all moneys received by, or on behalf of, the Court on account of the property of any ward, shall be employed in meeting the charges included in Class I hereinafter specified before it is employed in meeting the charges in Classes II and III hereinafter specified, and in meeting the charges in Class II before it is employed in meeting those in Class III.

Class I.

Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family.

Charges necessary for the management and supervision of the property of the ward.

Charges on account of Government revenue and of all cesses and other public demands due in respect of such property, or any part of such property.

Class II.

Charges on account of rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward.

The liquidation of debts payable by the ward.

Expenses necessary to protect the interests of the ward in the civil courts or otherwise.

The maintenance in efficient condition of the estates, buildings and other immoveable property and the suitable up-keep of the furniture, equipage, live-stock and other moveable property belonging to the ward.

Class III.

The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances, and of such donations befitting the position of the ward's family, as the Court may authorize to be paid.

The prevention and relief of distress among the ward's tenantry.

The improvement of the land and property of the ward and the benefit of the ward and his property generally.

Surplus how to be dealt with.

33. Any surplus which remains after providing, so far as the Court deems fit for the objects mentioned in section 32, shall be applied in the purchase of other landed property, or invested at interest on the security of—

(*a*) promissory notes, debentures, stock and other securities of the Government of India ;

(*b*) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;

(*c*) stock, or debentures of, or shares in, railways or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;

(*d*) debentures, or other securities for money, issued by, or on behalf of, any local authority under the authority of any Act of a Legislature, established in British India ;

(*e*) such other securities, stock, or shares guaranteed by the Government of India, or the Local Government as the Court shall deem fit ; or,

(*f*) first mortgages of immovable property situate in British India provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third or if consisting of buildings, exceeds by one-half, the mortgage-money.

Disabilities of wards.

[1][**34.** (1)] A ward shall not be competent—

(*a*) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property ; but nothing in this clause or in section 23 shall be deemed to affect the capacity of a ward to enter into a contract of marriage : provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal

[1] S. 34 was renumbered as sub-section (1) of section 34 by section 2 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

law to which he is subject, and to his rank and circumstances, the Court may, in writing, declare to be reasonable ;

(*b*) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate ;

(*c*) to adopt or to give a written or verbal permission to adopt, without the consent of the Court ;

(*d*) to dispose of his property by will without the consent of the Court :

Provided first, that the Court shall not withhold its consent under clause (*c*) or (*d*) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation :

Provided, secondly, that the Court may confirm a will or an adoption made, or a permission to adopt given, without its previous consent :

Provided, thirdly, that the provisions of clauses (*c*) and (*d*) shall not apply to any proprietor in regard to whose property a declaration has been made under section 18.

[1][(2) No claim under section 68 of the Indian Contract Act, 1872, shall be enforceable against the property of a ward which is under the superintendence of the Court ; but the Court may, in its discretion, satisfy in whole or in part, any such claim.] IX of 1872.

Powers of Court as to property under its superintendence.

35. The Court may mortgage or sell the whole or any part of any property under its superintendence and may give leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property.

Establishments and distribution of charges.

36. The Court may order such establishments to be employed and charges to be incurred as it shall consider requisite for the care and management of the persons and properties under its superintendence, and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit.

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[1] The sub-section was added by section 2 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

CHAPTER V.

Ascertainment and Settlement of Debts.

Notice calling upon claimants to notify claims.

37. (1) On the publication of a notification under section 19, the District Collector therein specified may, at any time with the previous sanction of the Local Government, publish in the Gazette of the district or districts in which such property may be situate a notice in English and in the vernacular calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property to notify the same in writing to the Collector within six months from the date of such notification.

(2) The notice shall also be published at such places and in such other manner as the Court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed.

(3) The Local Government may at any stage of the proceedings under sections 37, 38 and 40 invest any person either by name or in virtue of his office with the powers of a Collector for any or all of the purposes of these sections.

Explanation.—A claim shall be deemed to be pecuniary for the purpose of this section and sections 38 and 41 notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same.

Claimants to furnish full particulars and documents.

38. (1) Every such claimant shall within the period prescribed by section 37, notify to the Collector in writing his claim with full particulars thereof :

Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.

(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he founds his claim, shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf :

Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder or a true copy of the award and a statement of the sum recoverable thereunder as the case may be ; and if the claim is pending adjudication in

any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration as the case may be.

(3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim other than the documents if any produced under sub-section (2) as the Collector may consider necessary.

(4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Pecuniary claim of Government, etc., not affected.

39. Nothing contained in sections 37 and 38 shall apply to any pecuniary claim of Government or any local authority, or to claims for maintenance or for wages or salaries due to servants.

Claims admitted and disallowed.

40. The Collector shall after making such inquiry as he may deem fit, decide which claims notified or admitted under section 38 are to be allowed in whole or in part, and which are to be disallowed, and, on his decision being confirmed by the Court, shall give written notice of the same to the claimants :

Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim whether such claim be allowed or disallowed by the Court in whole or in part.

Claims not notified cease to carry interest, etc.

41. Every pecuniary claim against the ward or his property which has not been duly notified to, or admitted by the Collector under section 38 shall notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 37, and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under section 38.

Inadmissibility in evidence of documents not produced.

42. No document in the possession or under the control of the claimant which should have been, but has not been, produced in accordance with the requirements of section 38 shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him unless it be proved to the satisfaction of the civil court that it was not within his power to produce such document before the Collector.

When mortgagee in possession may be dispossessed.

43. (1) When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the Local Government may, on being satisfied that it is expedient

in the public interests that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the Court to take possession thereof; the Court shall, thereupon by an order in writing, require such incumbrancer to deliver up possession of the same to the manager at the end of the then current revenue year.

(2) If such incumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil court, enter upon the property, and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) The dispossession of the incumbrancer under sub-sections (1) and (2) shall not deprive him of any summary powers which he would have had under the Madras Rent Recovery Act, 1865,[1] for the recovery of arrears of rent due to him at the date of his dispossession.

adras Act II of 1865.

(4) If in the instrument of mortgage under which the incumbrancer is in possession of the property, no rate of interest is specified, the Collector, shall, in cases where the mortgage debt has been notified to or admitted by him, offer to the incumbrancer the rate of interest which appears to him to be reasonable; and pass an order fixing the rate accordingly. Copy of the order shall be served upon the incumbrancer in the manner prescribed by the Code of Civil Procedure[2] for service of summons upon a defendant. If the incumbrancer be dissatisfied with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in a district court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said court shall, if the mortgage debt has been notified or admitted as aforesaid, pass a declaratory decree fixing such rate of interest as to it may seem reasonable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector.

[V of 1882.

(5) If an incumbrancer is dispossessed under this section, the money due to him under the instrument of mortgage at the date of such dispossession together with subsequent interest on the unliquidated principal of the mortgage debt at the rate stipulated in the said instrument, and in the absence of such stipulation at the rate determined as hereinbefore provided, shall, subject to the provisions of section 41, and subject to the charges specified in classes I and II in section 32, excepting the

[1] **Repealed by Mad. Act I of 1908.**

[2] *See* now the Code of Civil Procedure, 1908 (V of 1908).

liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, live-stock and other moveable property belonging to the ward, be recoverable, together with any money which he may be legally entitled to add to the principal money, on the security of the property mortgaged and of the rents and profits arising or accruing therefrom subsequent to the date of such dispossession, in the same manner as if he were a simple mortgagee under the said instrument of such property and of such rents and profits.

(6) The Collector shall, as soon as conveniently may be, after the expiration of the revenue year commencing with the date of such dispossession and of every successive revenue year declare, subject to the approval of the Court, the gross annual rents and profits realized from such property, the several heads of expenditure and the balance and such declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed incumbrancer free of charge.

Provision regarding leases for insufficient consideration.

44. (1) When any property of a ward is in the possession of any person claiming to hold under a lease granted by the ward and dated within the three years immediately preceding the commencement of the superintendence or of any person claiming under such lessee, the Collector may inquire into the sufficiency of the consideration for which the lease was granted ; and if such consideration appears to him inadequate, he may, with the previous sanction of the Court, give notice in writing that the lease shall determine at the end of the then current revenue year unless the lessee or any one claiming under him pays or agrees to pay such additional consideration as may be mentioned in such notice within a date therein fixed. If within such date such person does not pay or enter into an agreement to pay the additional consideration demanded, or such other consideration as the Collector may be willing to accept, the lease shall determine at the end of the then current revenue year :

Provided that such person may, if dissatisfied with the said notice of the Collector, institute a suit against the ward within three months from the date of service of such notice in a district court within whose jurisdiction the property comprised in the lease or any portion thereof is situate for determining whether the consideration for the lease was adequate, and if not whether the additional consideration demanded by the Collector or what other amount is reasonable.

(2) If the said district court be satisfied that the lease was granted for adequate consideration and it is not shown to be otherwise invalid, it shall pass a decree establishing the validity of the lease.

(3) If the district court holds the consideration for the ease to be inadequate, it shall determine the amount of additional consideration to be paid by the lessee.

(4) If no such suit be instituted or if on the institution of such suit the lessee does not within one month from the date of the decree therein pay or enter into an agreement to pay the additional consideration, determined by the district court, the Collector may without resorting to a civil court enter upon the property and summarily evict therefrom such person and any other person obstructing or resisting on his behalf.

Execution of decrees to be transferred to Collector in certain cases.

45. (1) In the case of any specified ward of the Court, the Local Government may [* * * * *] [1] declare by notification in the official Gazette that execution of decrees passed by civil courts, which are capable of execution by sale of any immoveable property of such ward, or which in pursuance of a contract specifically affecting any such immoveable property order the sale of the same, whether such decrees be passed prior to such notification or subsequent thereto, shall be transferred to the Collector of the district in which such property or any portion thereof is situate and rescind such notification :

Provided that when a portion only of a decree passed by a civil court is of the description aforesaid, such portion alone shall be transmitted to the Collector for execution.

(2) The Local Government may also notwithstanding anything contained in the Code of Civil Procedure [2] prescribe rules for the transmission of the decree from the civil court to the Collector, and for regulating the procedure of the Collector in executing the same, and for retransmitting the decree from the Collector to the civil court.

XIV of 1882.

(3) Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which a civil court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the civil court under sections 294 and 312 of the Code of Civil Procedure[2] and may provide for orders passed by the Collector or any gazetted subordinate of the Collector or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior revenue authorities as nearly as may be as the orders passed by the civil court, or orders passed on appeal with respect to such orders, would be subject to appeal to

XIV of 1882.

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1 The words "with the previous sanction of the Governor-General in Council" were omitted by the Devolution Act, 1920 (XXXVIII of 1920) First Schedule—Part iii.

2 *See* now Act V of 1908.

and revision by appellate or revisional civil courts under the Code of Civil Procedure [1] or other law for the time being in force if the decree had not been transferred to the Collector. XIV of 1882

(4) A power conferred by the rules upon the Collector, or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exerciseable by the civil court which passed the transferred decree or by any civil court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the aforesaid civil court.

(5) In executing a decree transferred to the Collector under this section the Collector shall be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850. XVIII of 1850.

Collector to whom execution of decree has been transferred to cease to discharge the functions of a Collector under the Act.

46. (1) When the Collector, to whom the execution of any decree has been transferred under section 45, is also the Collector who has to discharge the other functions of a Collector under this Act in respect of the ward against whom such decree has to be executed, the Local Government shall appoint some other person by name or in virtue of his office to exercise the functions of a Collector under this Act in respect of such ward other than the execution of the decrees transferred to him.

(2) The Board of Revenue may authorize the person so appointed to exercise all or any of the powers conferred on a revenue-officer in charge of a division by sub-section (2) of section 16 of the Madras Proprietary Estates Village Service Act, 1894. Madras Act II of 1894.

Certain provisions of Civil Procedure Code to be applicable to execution of decrees transferred to Collector.

47. The provisions of sections 321, 322, 322 A, 322 B, 322 C, 322 D, 323, 324, 324 A, 325, 325 A, 325 C of the Code of Civil Procedure,[1] shall subject to the provisions of this Act and to such rules as may be prescribed by the Local Government under section 45, be applicable as far as may be to the execution of decrees transferred under section 45. XIV of 1882.

CHAPTER VI.

SUITS.

Exercise of discretion not to be questioned in civil court.

48. No declaration made by the Local Government under section 15 or 18 and no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil court.

Suit not to be instituted until after notice to Collector.

49. (1) No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or

[1] *See* now Act V of 1908.

left at the office of the District Collector specified in the notification under section 19 or the Collector appointed under section 46, as the case may be.

(2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 19.

Suit or proceeding by or against ward.

[1][**50.** In all suits or proceedings in any civil or revenue court the ward shall sue and be sued in his own name and the manager of his property appointed under section 24 or, if there is no such manager, the officer competent to act as manager under section 25 shall represent him, as next friend or guardian *ad litem* as the case may be.]

Costs against Collector or manager how paid.

51. If in any such suit or proceedings any civil or revenue court shall decree any costs against the **[2] manager [or other officer competent to act as manager under section 25][3] the Court of Wards shall cause such costs to be paid out of any property of the ward, which, for the time being, may be in its hands.

Suits must be authorized by Court.

52. No suit shall be brought on behalf of any ward by the * *[2]manager [3][or other officer competent to act as manager under section 25] unless authorized by some particular or general order of the Court:

Provided that a manager [4][or other officer as aforesaid] [5]* * * * * may file a plaint in order to prevent a suit from being barred by the law of limitation, but such suit shall not be further proceeded with, until the consent of the Court has been obtained.

Adjudication of civil disputes between two or more wards.

53. (1) When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil court with

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[1] Substituted for the original s. 50 by Mad. Act I of 1911, s .2.

[2] The words "Collector or" were omitted by *ibid*, s. 3.

[3] Inserted by *ibid*.

[4] Inserted by *ibid*, s. 4.

[5] The words "in the name of the Collector or in his own name as the case may be" were repealed by *ibid*.

regard to such matter under section 527 of the Code of Civil Procedure,[1] to file in the civil court having jurisdiction, a statement containing the point or points for determination. XIV of 1882.

(2) When such statement has been filed, the civil court shall appoint a guardian *ad litem* for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the Code of Civil Procedure[1] for the hearing and disposal of cases stated for opinion under that Chapter. XIV of 1882.

CHAPTER VII.

RELEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE.

Release from superintendence.

54. The Court may, with the previous sanction of the Local Government, in all cases where superintendence has been assumed in pursuance of orders under section 15, at any time release from its superintendence the person or property of a ward or both and shall save as provided in section 57 release from superintendence—

(*a*) the person and property of a ward disqualified under clause (*a*) of section 9 as soon as he ceases to be a minor ;

(*b*) the person and property of a ward disqualified under clause (*c*) of section 9 as soon as it is found by a competent civil court that the disability has ceased ;

(*c*) the person and property of a proprietor declared to be disqualified under clause (*b*) or (*d*) of section 9 as soon as the Local Government revokes its declaration that such proprietor is disqualified ;

(*d*) the property of an undivided Hindu family, and the person of every co-parcener therein who is not possessed of separate estate, as soon as any co-parcener ceases to be disqualified under section 9.

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[1] See now Act V of 1908.

Release of estates taken under management under section 18 when debts cannot be liquidated within reasonable time.

55. (1) The Court may, with the previous sanction of the Local Government, at any time within two years from the date of the notification published under section 19, release from its superintendence, on a day to be notified, the property of a person who has been made a ward of the Court in pursuance of an order under section 18 without liquidating any of his debts and liabilities or after liquidating some of the debts and liabilities, when the Court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall cease on the date so notified.

(2) Whenever an incumbrancer is dispossessed under section 43, and his debt remains unliquidated at the time the Court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the incumbrancer in possession.

(3) Whenever the property of a person is released under sub-section (1) from the superintendence of the Court, the provisions of sections 41 and 42 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his property is so released.

(4) In computing the period of limitation applicable to a suit brought or application made against such person or his legal representative after the Court has released his property under sub-section (1) the time during which the superintendence of the Court continued shall be excluded.

When estate taken under management under section 18 may be made over to proprietor.

56. The Court may, with the previous sanction of the Local Government, replace any proprietor made a ward of the Court in pursuance of an order under section 18, in the management of his estate on a day to be notified if the debts and liabilities binding on his estate have been discharged, and the Court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs and his legal incapacity shall cease on such date.

Option to retain superintendence in certain cases.

57. When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the Court may, with the previous sanction of the Local Government, retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the Court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the Court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid :

Provided that, after the death of the ward, the Court shall not retain charge on account of any debt or liability which

has been declared by a civil court not be binding on the representatives of the deceased ward.

Disabilities of proprietor in such cases.

58. If the Court retains the superintendence under the provisions of the last preceding section, the person who has succeeded to the property, or the person who has ceased to be disqualified shall in so far as the property in question is concerned be deemed to be a ward of the Court for the purposes of clauses (*a*) and (*b*) of [1][sub-section (1) and sub-section (2) of section 34].

Appointment of guardian before release.

59. (1) When the Court decides to release from its superintendence the person and property of a minor it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section, the Court shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890. VIII of 1890.

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890. VIII of 1890.

Recovery of expenses after release.

60. Any expense incurred by the Court on account of any property under its charge, and not defrayed from such property during the Court's superintendence may, after the release of such property, be recovered as if it were an arrear of land-revenue from any person into whose possession such property or any part thereof may have passed :

Provided that the sum so recovered from any such person shall not be greater than the value of any such property, which so passed into the possession of such person.

Procedure when succession towards property is disputed.

61. Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the Court may either direct that such property, or part thereof, be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent civil court, or institute a suit of inter-pleader against all the claimants.

Notification of release from superintendence.

62. Whenever the Court releases any person or property from its superintendence, the fact of such release shall be notified in the *Fort St. George Gazette* and also in the Gazette of the district in which such property or any part thereof is situate.

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[1] The portion within square brackets was substituted for the word and figures "section 34" by section 3 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

CHAPTER VIII.

MISCELLANEOUS.

Powers of Court in regard to religious endowments of which ward is hereditary trustee or manager.

63. If a ward is the hereditary trustee or manager of a temple, mosque or other religious establishment or endowment, the Court, notwithstanding anything contained in section 22 of the Religious Endowments Act, 1863, may make such arrangements as it thinks fit for the discharge, during the wardship of the ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establishment or endowment the Court shall appoint suitable persons other than officers of Government and that the Court shall as far as possible restrict its superintendence to the preservation of the property belonging to the institution, establishment or endowment.

XX of 1863.

Powers of persons holding inquiries.

64. In holding any inquiry under this Act the Collector or other person authorized to hold such inquiry shall have all the powers conferred on revenue officers by the Madras Revenue Summonses Act, 1869.

Mad. Act III of 1869.

Property under charge of Court not liable to sale for arrears.

65. No immoveable property under the superintendence of the Court shall be liable to sale on account of arrears of land-revenue, accruing while such estate is under the superintendence of the Court :

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any such property which may be sold for any other cause than for arrears of revenue.

Power to make rules.

66. The Court may, with the previous sanction of the Local Government, make rules consistent with this Act—

(*a*) regulating the management of property under the superintendence of the Court ; and

(*b*) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

CHAPTER IX.

PENALTIES.

Abetting unsanctioned marriage of wards, etc.

67. Whoever, without the previous consent of the Court, abets the marriage of any of the persons specified in clauses (*a*), (*b*) and (*c*) of section 23 shall be liable, on conviction before a Court of Session, to a fine not exceeding Rs. 2,000 or to imprisonment for a term not exceeding six months or to both

MADRAS ACT No. II OF 1904.[1]

[THE MADRAS IMPARTIBLE ESTATES ACT, 1904.]

[*8th February*, 1904 ; *1st March*, 1904.]

An Act to declare that certain[2] estates are impartible and that the proprietors of such estates cannot exercise unrestricted powers of alienation in respect thereof.

Preamble. WHEREAS it is expedient to amend the law in regard to the impartibility and inalienability of certain estates ; It is hereby enacted as follows :—

Short title. **1.** (1) This Act may be called the Madras Impartible Estates Act, 1904.

Extent. (2) It extends to the whole of the Presidency of Madras except the districts of Malabar and South Kanara.

Repeal. (3) On this Act coming into force the Madras Impartible Estates Act, 1902, and the Madras Impartible Estates Act Continuance Act, 1903, shall be repealed. Madras Act II of 1902. Madras Act II of 1903.

Definitions. **2.** In this Act unless there is something repugnant in the subject or context :

"Alienation." (1) "Alienation" includes a temporary transfer such as a mortgage or a lease.

"Impartible estate." (2) "Impartible estate" means an estate descendible to a single heir and subject to the other incidents of impartible estates in Southern India.

"Proprietor of an impartible estate." (3) "Proprietor of an impartible estate" means the person entitled to possession thereof as single heir under the special custom of the family or locality in which the estate is situated or if there be no such family or local custom under the general custom regulating the succession to impartible estates in Southern India.

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[1] For the Statement of Objects and Reasons, *see Fort St. George Gazette*, 1903, Part IV, p. 343 ; for the Report of the Select Committee, *see ibid*, Part IV, p. 383 ; and for Proceedings in Council, *see ibid*, 1903, Part IV, p. 364 ; *ibid*, 1904, Part IV, p. 49.

The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of the 8th March, 1904.

[2] See also :—
Madras Act II of 1918.
Madras Act VII of 1926.
Madras Act V of 1928.
Madras Act VIII of 1929.
Madras Act IX of 1929.
Madras Act IX of 1930.
Madras Act I of 1933.
Madras Act II of 1933.
Madras Act IX of 1933.

[1][For the purposes of clause (*c*) of sub-section (2) of section 4 and of sub-section (3) of that section, " estate " means—

(1) any permanently settled estate, whether a Zamindari, Jaghir, Mitta or Palaiyam ;

(2) any portion of such permanently settled estate which has been separately registered in the office of the Collector ;

(3) any unsettled Palaiyam or Jaghir ;

(4) any inam village of which the grant was made or confirmed by the British Government ; or

(5) any portion consisting of one or more villages, of any of the estates specified above in clauses (1), (2) and (3), which is held on a permanent under-tenure.]

Estates deemed impartible.

3. The estates included in the schedule shall be deemed to be impartible estates.

Restriction on alienations of impartible estates.

4. (1) The proprietor of an impartible estate shall be incapable of alienating or binding by his debts, such estate or any part thereof beyond his own lifetime unless the alienation shall be made, or the debt incurred, under circumstances which would entitle the managing member of a joint Hindu family, not being the father or grandfather of the other coparceners, to make an alienation of the joint property, or incur a debt, binding on the shares of the other coparceners independently of their consent.

Permissible alienations.

(2) In particular and without prejudice to the generality of the foregoing provisions, the proprietor of an impartible estate is hereby expressly authorized—

(*a*) to grant sites for public charitable and public religious institutions ;

(*b*) to grant mining or quarrying leases for terms not exceeding sixty years and leases of the pannai or home farm lands for terms not exceeding fifteen years, provided that every such lease—

(i) shall be by registered deed and shall be made to take effect in possession not later than twelve months after its date ;

(ii) shall reserve the best rent that can reasonably be obtained, regard being had to any money laid out or to be laid out by the lessee for the benefit of the estate, but not to any fine or premium paid or to be paid in consideration of granting such lease ;

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[1] The paragraph within square brackets was added by section 2 of the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934).

[2] In the application of the Act to the Agency tracts the following has been added at the end of this clause :—

' or for any purpose which in the opinion of the Local Government is either directly or indirectly beneficial or is likely to be directly or indirectly beneficial to the estate.' *See* Notification No. 334, published at pages 1861–1862 of part I of the *Fort St. George Gazette*, dated 4th December 1928.

(iii) shall contain a covenant by the lessee for payment of rent and a condition of re-entry on the rent not being paid within a time therein specified not exceeding three months ;

(iv) if a mining or quarrying lease, may make the rent ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of in or from such estate, or any other land, or by or according to any facilities given in that behalf, and may reserve a fixed or minimum rent with or without power for the lessee, in case the rent according to acreage or quantity in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent ;

[1][(*c*) (i) to exchange the impartible estate or any part or parts thereof for an estate or estates or part or parts of an estate or estates ; and

(ii) to sell the impartible estate or any part or parts thereof and acquire with the proceeds of such sale an estate or estates or part or parts of an estate or estates :

Provided that the Collector of the district in which the impartible estate which is to be exchanged or sold or the part or parts thereof which is or are to be exchanged or sold is or are situated, has granted a certificate, or where the impartible estate or part or parts thereof affected is or are situated in more than one district, the Collectors of all the districts concerned have granted a certificate, to the effect that the transaction of exchange or of sale and acquisition as the case may be, is advantageous to and for the benefit of the impartible estate or, where the Collector or any of the Collectors concerned have refused to grant such a certificate, the Board of Revenue, on appeal made to it within a time to be prescribed by rules under sub-section (4), has granted a certificate to the effect that the transaction is advantageous to and for the benefit of the impartible estate.]

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[1] This clause was added by section 3 of the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934).

[1][(3) The estate or estates or part or parts of an estate or estates obtained in exchange for or acquired with the proceeds of the sale of an impartible estate or any part or parts thereof under clause (*c*) of sub-section (2) shall, for all the purposes of this Act, be deemed to be an impartible estate or to form part or parts of the impartible estate, as the case may be.]

[1][(4) The Local Government may make rules for regulating the grant of certificates under the proviso to clause (*c*) of sub-section (2) and generally for carrying out the purposes of the said clause.].

[2][(5)] Nothing in this section shall be construed to restrict the power of the owner of an impartible estate to provide for the succession thereto in default of heirs. Exception.

Procedure in regard to grant of certain leases.

5. When the proprietor of an impartible estate proposes to grant any such lease as specified in section 4, sub-section (2), clause (*b*), it shall be lawful for such proprietor or the intending lessee to submit a draft of the proposed lease to the Board of Revenue for approval, and the Board, if satisfied after making such inquiry and giving such notices as it thinks fit, that the terms of such draft lease are in accordance with the provisions of this Act, may approve thereof and affix its seal thereto in token of approval; and if the proprietor shall thereafter execute the lease in the terms of the draft lease so approved and sealed, such lease shall be deemed to have been duly granted in accordance with the provisions of this Act.

Conditions of alienations of impartible estates for payment of land revenue due to Government.

6. Notwithstanding anything hereinbefore contained, the proprietor of an impartible estate shall be incapable of alienating, or binding by his debts such estate or any part thereof beyond his own lifetime for the payment of land-revenue due to Government, unless he shall have first obtained the consent in writing of the Collector of the district in which the estate is situated. Such consent shall not be refused unless in the opinion of the Collector the case is one in which the land-revenue due to Government may be realised by management of the estate under the provisions of the Madras Revenue Recovery Act, 1864.

Madras Act II of 1864.

Saving clause.

7. This Act shall not affect alienations made or debts incurred before the coming into force of this Act, and shall cease to apply to estates or parts of estates which may hereafter be lawfully alienated otherwise than by temporary transfer.

Computation of period of limitation.

8. (1) In computing the period of limitation applicable to suits and legal proceedings other than suits stayed and to appeals barred by the Madras Impartible Estates Act, 1902, the period during which such suits, proceedings or appeals were

Madras Act II of 1902.

[1] Sub-sections (3) and (4) were inserted by the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934).

[2] The original sub-section (3) was renumbered (5) by *ibid.*

stayed or barred by the said Act shall be excluded, and all such suits, proceedings and appeals shall be deemed to have been actively prosecuted during such period within the meaning of section 52 of the Transfer of Property Act, 1882. IV of 1882

Exclusion of estates declared partible.

(2) If in any suit, proceeding or appeal permitted to proceed by the Madras Impartible Estates Act Continuance Act, 1903, it be finally decided that any estate named in the Schedule attached to this Act is partible, such estate shall be deemed not to have been mentioned in the Schedule. Madras Act II of 1903.

Persons entitled to maintenance out of the impartible estate.

[1][**9.** Where for the purpose of ascertaining the succession to an impartible estate, the estate has to be regarded as the property of a joint Hindu family, the following persons shall have a right of maintenance out of the impartible estate and its income, namely—

(*a*) the son, grandson, or [2]great-grandson, in the male line, born in lawful wedlock or adopted, of the proprietor of the impartible estate or of any previous proprietor thereof;

Provided that where maintenance is payable to a son or grandson, by or under any decree or order of court, award, contract, family arrangement or other instrument in writing, and such instrument, expressly or by necessary implication, makes it clear that the maintenance is payable to such son or grandson as representing his branch of the family, it shall not be open to a son or grandson of such son, or to a son of such grandson, as the case may be, during the period for which such maintenance is payable, to claim maintenance either in his individual right or as representing his branch of the family.

(*b*) the widow of any previous proprietor of the impartible estate so long as she does not remarry;

(*c*) the widow of the son, grandson or great-grandson of the proprietor of the impartible estate or of any previous proprietor thereof, so long as she does not remarry, provided she has no son or grandson living;

(*d*) the unmarried daughter born in lawful wedlock of the proprietor of the impartible estate or any previous proprietor thereof; and

(*e*) the unmarried daughter, born in lawful wedlock, of a son or grandson of the proprietor of the impartible estate or of any previous proprietor thereof, provided she has neither father nor mother nor a brother living.

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1 Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934.)

2 See section 25 (1) of the Indian Succession Act, 1925 (Act XXXIX of 1925).

Explanation.—Maintenance shall, where necessary, include a provision for residence and in the case of an unmarried daughter of the proprietor or any previous proprietor, a provision for the expenses of her marriage in accordance with the scale customary in the family.]

Amount of maintenance.

[1][**10.** (1) In determining the amount of maintenance payable to any of the persons mentioned in section 9, the court shall *inter alia* have regard to the following considerations, namely :—

(i) the net income of the estate ;
(ii) the number of persons to be maintained out of the estate ;
(iii) the nearness of relationship of the person claiming to be maintained ;
(iv) the other sources of income of the claimant ; and
(v) the circumstances of the family of the claimant.

(2) The court shall so fix the amount of such maintenance that the total amount payable out of the estate by way of maintenance to the relations mentioned in section 9 shall not exceed one-fifth of the net income.]

Family arrangements in satisfaction of claim to maintenance.

[1]**11.** Notwithstanding anything contained in this Act, the proprietor of an impartible estate shall have power to enter into a *bona fide* family arrangement whereby in full satisfaction of the claim for maintenance of a particular branch, any property other than the impartible estate is allotted to that branch, and where such an arrangement has been entered into, no member of such a branch shall have any right after such arrangement to claim any maintenance from the estate.]

Right to maintenance under law or custom not to be affected.

[1][**12.** Nothing contained in this Act shall affect the right to maintenance out of an impartible estate and the income thereof, of any other relations of the proprietor or any previous proprietor under any law or custom for the time being in force.]

Power to declare maintenance to be a charge.

[1][**13.** The award of maintenance under section 9 may be declared a charge upon any portion of an impartible estate or the income thereof.]

Power of court to vary maintenance.

[1][**14.** (1) Any decree for maintenance passed under this Act may be varied by the court, if any of the facts and circumstances referred to in section 10 have undergone a material change.

(2) Where the rate of maintenance periodically payable to any person mentioned in section 9 out of an impartible estate has been fixed by a decree or order of court, family arrangement, award, contract or other instrument in writing, whether before or after the commencement of the Madras Impartible Estates (Second Amendment) Act, 1934, it shall be

[1] Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934).

lawful for the court to reduce such rate of maintenance in order to provide maintenance for new claimants and to adjust it within the limits specified in sub-section (2) of section 10.]

Sections 9 to 14 not to affect prior contracts, etc.

[1][**15.** Save as provided in section 14, nothing contained in sections 9 to 14, shall affect any contract, arrangement, award or decree of court entered into or made before the date of the commencement of the Madras Impartible Estates (Second Amendment) Act, 1934 :

Provided that no decree made prior to the passing of the Madras Impartible Estates (Second Amendment) Act, 1934, negativing the right of any person to maintenance claimed in his own right or as representing his branch shall debar his descendants declared entitled to maintenance under section 9 from claiming such maintenance.]

SCHEDULE.

North Arcot.

1. Kálahasti.
2. Karvetnagar.
3. Punganúru.
4. Kangundi.
5. Bangári Pálaiyam.
6. Naraganti Pálaiyam.
7. Vallivédu and Kámavaram Divisions of Pulicherla Pálaiyam.
8. Gudipati Pálaiyam.
9. Tumba Pálaiyam.
10. Kallúru Pálaiyam.

[2][11. Arni Jágír.]

South Arcot.

1. Véttavalam.
2. Kurumba Gounden Jágír.
3. Jadaya Gounden Jágír.
4. Ariya Gounden Jágír.

Chingleput.

1. Kálahasti.

Coimbatore.

1. Uttukuli.
2. Samattúr.
3. Kóttámpatti.
4. Poravipálaiyam.
5. Rámapatnam.

Coimbatore—cont.

6. Métrátti.
7. Tungávi.
8. Jóttampatti.
9. Védapatti.

Ganjam.

1. Parlákimedi.
2. Dhárákóta.
3. Kallikōta.
4. Pedda Kimedi.
5. Chikatí.
6. Mandasá.
7. Chínna Kimedí.
8. Sérugadá.
9. Humma.
10. Bodogadá.
11. Surangi.
12. Jarada.
13. Budarasingi.
14. Tarlá.
15. Biridi.
16. Pálúru.

Gódávari.

1. Pithápuram.
2. Nidadavólu, Baharzhalli and Ambarapéta.
3. Végayammapéta.

1 Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934).

2 Included by Mad. Act VI of 1909.

Godavari—cont.

4. Tangellamúdi.
5. Bhadráchalam.
6. Kótipalli in the Vizianagram zamindári.
7. Telikicherla.
8. Vilasa.
9. Janupalle.
10. Jálimúdi.

Kistna.

1. Dévarakóta.
2. Munagála Paraganá.
3. Chintalapáti Vantu.

Madura.

1. Ramnad.
2. Sivaganga.
3. Rettayambádi.
4. Peraiyur.
5. Sáptúr.
6. Bódináyakkanúr.
7. Gandamanáyakkanúr.
8. Ayakkudi.
9. Idaiyangóttai.
10. Ammayanáyakkanúr.
11. Puliyankulam.
12. Jyótilanáyakkanúr.
13. Uttappanáyakkanúr.
14. Doddappanáyakkanúr.
15. Nadukkóttai.
16. Mélakkóttai.
17. Sandaiyúr.
18. Téváram.
19. Erasakkanáyakkanúr.
20. Mámbarai.

Nellore.

1. Venkatagiri.
2. Chundi.
3. Mutyálapádu.
4. Kálahasti.

Salem.

1. Shúlagiri Pálaiyappattu.
2. Ankusagiri Pálaiyappattu.
3. Periya Kalráyan Nád.
4. Chinna Kalráyan Nád.
5. Ariya Gounden Jágír.

Tanjore.

1. Gandarvakottai.
2. Kállákottai.
3. Kónúr.
4. Sillattúr.
5. Pálayavanam.
6. Páppánádu.
7. Singavanam.
8. Madukkúr.
9. Neduvásal.
10. Séndangudi.
11. Attivetti.

Tinnevelly.

1. Ettiyapuram.
2. Sivagiri.
3. Séttúr.
4. Urkkádu.
5. Singampatti.
6. Uttumalai.
7. Maniyáchi.
8. Kadambúr.
9. Attankarai.
10. Naduvakurichchi Minor Division.
11. Talaivankóttai.
12. Alagápuri.
13. Mannárkóttai.
14. Sennalkudi and Kadambankulam.
15. Kollapatti.
16. Kollankondán.
17. Avudaiyápuram.

Trichinopoly.

1. Marungápuri.
2. Kadavúr.
3. Turaiyúr.
4. Udaiyárpálaiyam.

Vizagapatam.

1. Vizianagram.
2. Bobbili.
3. Sálúru.
4. Mádugula.
5. Jeypore.
6. Kurupám.
7. Sangamvalasa.
8. Kásípuram.
9. Páchipenta.
10. Andra.
11. Saripalli Bhímavaram.

MADRAS ACT No. IV OF 1904.[1]

[THE MADRAS VILLAGE PANCHAYATS REGULATION AND THE MADRAS VILLAGE COURTS ACT AMENDMENT ACT, 1904.]

[*5th December*, 1904; *19th December*, 1904.]

An Act to amend the Madras Village Panchayats Regulation, 1816, and the Madras Village Courts Act, 1888.

Preamble. WHEREAS it is expedient to amend the Madras Village Panchayats' Regulation, 1816, and the Madras Village Courts Act, 1888; It is hereby enacted as follows :— Mad. Reg. V of 1816. Mad. Act I of 1889.

Short title. 1. This Act may be called the Madras Village Panchayats' Regulation and the Madras Village Courts Act Amendment Act, 1904.

Amendment of section 16 of Madras Regulation V of 1816. 2. [*Amendment of section* 16 *of Madras Regulation V of* 1816. *Not printed as the Regulation has been repealed.*]

Amendment of section 5 of Madras Act I of 1889. 3. [*Amendment of the definition of "District Munsif" in section* 5 *of Madras Act I of* 1889. *Not printed.* See *Footnote No.* 2 *on p.* 442 *supra.*]

MADRAS ACT No. I OF 1905.[2]

[THE MADRAS ABKARI (AMENDMENT) ACT, 1905.]

[31*st March* 1905, 14*th April* 1905.]

An Act to amend the Madras Abkari Act I of 1886.

Preamble. WHEREAS it is expedient to amend the Madras Abkari Act, 1886 (hereinafter referred to as "the said Act"); It is hereby enacted as follows : Mad. I of 1886.

Short title. 1. This Act may be cited as the Madras Abkari (Amendment) Act, 1905.

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[1] For the Statement of Objects and Reasons, *see Fort St. George Gazette*, 1904, Pt. IV, p. 432; and for Proceedings in Council, *see ibid*, p. 589.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette*, of the 3rd January, 1905.

[2] For the Statement of Objects and Reasons, *see Fort St. George Gazette*, 1905, Pt. IV, p. 4; and for Proceedings in Council, *see ibid*, p. 197.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 2nd May 1905.

2. *The following shall be inserted in the said Act as section* 5-*A* :— Insertion of a new section after section 5.

[*Vide pp.* 386–38 *supra.*]

3. *The following shall be added as a proviso to section* 34 *of the said Act* :— Addition of a proviso to section 34.

[*Vide p.* 399 *supra.*]

4. *In section* 40, *sub-section* (1), *of the said Act, between the words* accepted under the provisions of section 31 *and the word* forthwith *the following words shall be inserted, namely* :— Amendment of section 40.

or of section 34 ;

and in sub-section (3), *between the words* on bail *and the words* such officer *the following words shall be inserted, namely :—*

or when such Abkari officer as aforesaid has himself made the arrest.

5. *The following shall be inserted as a proviso to section* 40 *of the said Act* :— Addition of a proviso to section 40.

[*Vide p.* 401 *supra.*]

MADRAS ACT No. II OF 1905.

TABLE OF CONTENTS.

CHAPTER I—PRELIMINARY.

SECTIONS

1. Short title.
2. }
3. } * * *
4. }
5. Interpretation clause.

CHAPTER II—THE BOARD OF TRUSTEES.

6. Imposition of duty of working the Act on a Board.
7. Constitution of the Board.
8. Appointment of Chairman, election of Trustees and appointment of nominated Trustees.
9. Publication of names of Trustees.
10. Disqualifications for office of Trustee.
11. Term of office of Chairman and Trustees.
12. Eligibility of Trustees for re-election or re-appointment.
13. Election or appointment of Chairman or Trustee in casual vacancy.

14 to 17. * * *

18. Nomination of elected Trustees by Local Government in default of election.
19. Grant of leave of absence to Chairman.

SECTIONS

20. Appointment of acting Trustee.
21. Remuneration to the Chairman and acting Chairman.
22. Fees payable to Trustees.
23. Provisions concerning Board's proceedings.
23 A. Restriction on power of Trustees to vote or discuss matters in which they are interested.
24. Validation of acts and proceedings.
25. Delegation of powers to Chairman.
26. Duties of Chairman.

CHAPTER III—OFFICERS AND SERVANTS OTHER THAN THE CHAIRMAN.

27. Schedule of Board's staff.
28. Power to frame regulations regarding leave, absentee allowances, etc.
28 A. Power to frame regulations for artisans, porters, etc.
29. (1) Power to appoint, punish, or grant leave to, officers and servants.
(2) Power of dispensing with services or permitting retirement of officers or servants.
30. Prior sanction of Local Government to orders or regulations of Board.

CHAPTER IV—PROPERTY OF THE BOARD.

31. Property vested in Board.
32. Power to acquire, hold or alienate property.
33. Application of Land Acquisition Act.
34. * * *

CHAPTER V—WORKS AND SERVICES.

35. Power to execute works and provide appliances.
36. General nature of works to be executed or appliances to be provided.
37. Power to order survey or examination of works.
38. Power of Local Government to restore or complete works at the cost of Board.
39. Performance of services by the Board.
40. Responsibility of Board for loss, etc., of goods.
41. Performance of services by persons to whom the services have been relinquished by the Board.
41 A. Relinquishment of services subject to the control of the Local Government.

CHAPTER VI—IMPOSITION AND RECOVERY OF RATES.

42. Scale of rates.
43. Scale of rates and statement of conditions for use of property belonging to the Board.
43 A. Consolidated rates for combination of services.
44 (1) Prior sanction of Local Government to such scales.
(2) Remission of rates in special cases.
(3) Power to fix maxima and minima rates.

SECTIONS

44-A. Refund of overcharges.
45. Power to increase rates to cover deficiency of revenue.
46. Power of Local Government to enhance rates if Board fails to do so.
47. Disability of Board to lease rates without sanction of Local Government.
48. Payment of fines and damages to Board.
49. Payment of balance of Madras Port Fund to Board.
50. Time for payment of rates on goods.
51. Lien for rates.
52. Priority of lien of Board over other liens and claims.
53. Preservation of lien for freight after goods are landed.
54. Retention of such goods until lien is discharged.
55. Discharge of ship-owner's lien for freight.
56. Sale of goods after two months if rates or rents are not paid or lien for freight is not discharged.
57. Notice of sale.
58. Notice of sale to owner.
59. Application of sale-proceeds.
60. Recovery of rates and charges by distraint of vessel.
61. Grant of port-clearance after payment of rates.
62. Alternative remedy by suit.

CHAPTER VII—THE BORROWING POWERS OF THE BOARD.

63. Power to raise loans.
64. Port Trust securities.
64-A. Indian Securities Act applicable to Port Trust securities.
64-B. Power to frame rules.
65. Place and currency of loans raised.
66. Security for loans.
67. Remedies of Secretary of State in respect of loans made to Board.
68. Power to repay loans before due date.
69. Establishment of sinking fund.
70. (1) Investment of sinking fund.
(2) Application of sinking fund.
71. Examination of sinking fund.
72. (1) Interest on outstanding debt.
(2) Repayment of outstanding debt.
73. Power to raise loans on short-item bills.

CHAPTER VIII—EXPENDITURE.

74. Objects on which Board may spend money.
75. Prior sanction of Local Government to charge expenditure to capital.
76. Works requiring sanction of Board or Local Government.
77. Restriction of expenditure to budget grant.
78. Limit to excess of expenditure over budget grant.

CHAPTER IX—ACCOUNTS, ESTIMATES AND CONTRACTS.

79. Audit and examination of accounts.
Power of auditors to call for books, etc.
80. Publication of audit report.
81. Auditors' remuneration.

SECTIONS

82. Submission to Board of annual estimate of income an expenditure.
83. Circulation of estimate to Trustees.
84. Revision and passing of estimate.
85. Approval of estimate by Local Government.
86. Preparation of supplemental estimates.
87. Power to enter into contracts.
88. Mode of executing contract.
89. Power to compound or compromise claims.

CHAPTER X—PILOTS AND HARBOUR MASTERS.

90. Pilotage fees.
91. Appointment of pilots.
92. Rules and Regulations regarding pilots.
93. Pilotage account.
94. Expenditure on pilotage.

CHAPTER XI—BY-LAWS.

95. Power to frame by-laws.
96. Validity of by-laws.
97. Penalties for infringement of by-laws.
98. Exhibition of by-laws and scales of rates and charges.
99. Cancellation of by-laws.

CHAPTER XII—PENALTIES.

100. Penalty for being interested in contracts with Board.
101. Penalty for obtaining illegal gratification.
102. Penalty for refusing or neglecting to appear before an auditor of accounts, etc.
103. Penalty for depositing filth, etc., on the wharves or foreshore.
104. Penalty for setting up any erection below highwater mark in the port.
105 Penalty for understating quantity or weight of goods, or incorrectly describing them.
106. Penalty for evading tolls, etc.
107. Recovery of value of damage to property of Board.
108. Cognizance of offences against Act or by-laws.

CHAPTER XIII—MISCELLANEOUS.

109. Saving of power of Chief Officer of Customs under existing law.
110. Notice and limitation of suits or other proceedings.
111. Saving of liability of Board for acts of officers or servants.
112. Submission of returns and information to Local Government.
113. Power of Local Government to take possession of works and cancel powers of Board.

SCHEDULES.

Schedule I.—ENACTMENTS REPEALED.

Schedule II.—THE PROPERTIES VESTED IN THE BOARD.

Schedule III.— * * *

MADRAS ACT No. II OF 1905[1].

[THE MADRAS PORT TRUST ACT, 1905.]

[19*th April* 1905 ; 17*th May* 1905.]

An Act to amend and consolidate the law relating to the Port of Madras.

Preamble. WHEREAS it is expedient to amend and consolidate the law relating to the regulation, conservancy and improvement of the Port of Madras ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called the Madras Port Trust Act, 1905.

2, 3, 4. [*Repealed by section* 3 *of Act IV of* 1923.]

Interpretation clause. **5.** In this Act, unless there be something repugnant in the subject or context,—

"Board." (1) "Board" means the Trustees of the Port of Madras appointed under this Act ;

"Chief Officer of Customs." (2) "Chief Officer of Customs" denotes the chief executive officer of [* *][2] Customs for the Port of Madras for the time being ;

"Dock." (3) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, [slipways][3] grid-irons, quays, warehouses, and other works and things appertaining to any dock, and also denotes the portion of the sea enclosed [4][or protected] by the arms or groynes of the harbour ;

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[1] For the Statement of Objects and Reasons, *see Fort St. George Gazette*, 1904, Extraordinary, p. 569 ; for the Report of the Select Committee, *see ibid* 1905, Pt. IV, p. 5 , and for the Proceedings in Council, *see ibid*, 1904, Pt. IV, p. 590 ; *ibid*, 1905, Pt. IV, pp. 72, 200. The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of the 6th June, 1905.

[2] The word "sea" before the words "Customs for the Port of Madras" was omitted by section 3 of Madras Act II of 1915.

[3] The word "slipways" was substituted for the words "patent slips" by *ibid.*

[4] These words were inserted by *ibid.*

"Goods." (4) "Goods" means and includes every kind of movable property;

[* *]

"Land." [1](5) "Land" includes the bed of the sea below high watermark;

"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 except a pilot or harbour-master;

"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;

"Pier." (8) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith;

"Port." (9) "Port" means the Port of Madras within such limits as may from time to time be defined by the Local Government 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 the Madras Harbour Trust Act, 1885;

"Port Trust security." [2][(10) "Port Trust security" means debentures, bonds or stock certificates issued by the Board in respect of any loan contracted under the provisions of this Act.] Madras Act II of 1886.

"Prescribed." [2][(11) "Prescribed" means prescribed by rules or by-laws made under this Act;]

"Rate." [2][(12)] "Rate" includes any toll, due, rent, rate or charge leviable under this Act.

"Vessel." [2][(13)] "Vessel" denotes anything made for the conveyance by water of human beings or of property;

"Wharf." [2][(14)] "Wharf" includes [3] [any wall or stage and] any part of the foreshore that may be used for loading or unloading goods, and any wall enclosing or adjoining the same.

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[1] The definition of "Harbour" which was clause (5) was omitted and original clauses (6) to (13) were renumbered (5) to (12) by section 3 of Madras Act II of 1915.

[2] Clauses (10) and (11) were added by section 4 of Madras Act IV of 1923 and clauses (10) to (12) were renumbered (12) to (14).

[3] These words were inserted by section 3 of Madras Act II of 1915.

CHAPTER II.

THE BOARD OF TRUSTEES.

Imposition of duty of working th Act on a Board.

6. 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 Port of Madras," and such Board shall be a body corporate and have perpetual succession and a common seal and shall sue and be sued by the aforesaid name.

Constitutio of the Board.

[1][**7.** The Board shall consist of such number of Trustees, not being less than eleven or more than fifteen including the Chairman, as the Local Government may notify. Provided that the Chairman if absent on leave for more than a fortnight and if another Chairman is appointed to act for him, shall cease to be a Trustee and shall on return to duty again become a Trustee.

Not less than four of the Trustees shall be Indians and not more than four shall be Government officials.]

Appointment of Chairman, Election of Trustees and Appointment of nominated Trustees.

[1][**8.** (1) The Chairman shall be appointed by the Local Government. Of the remaining Trustees four shall be elected by the members for the time being of the Madras Chamber of Commerce, two by the members for the time being of the Southern India Chamber of Commerce, two by the members for the time being of the Madras Trades Association and one each by the members for the time being of the Southern India Skin and Hide Merchants' Association and the Madras Piece-goods Merchants' Association at a meeting of the members of the Chamber or the Association concerned convened in accordance with the rules of such Chamber or Association.

(2) An election under sub-section (1) shall be held subject to such directions prescribing the qualifications of the persons to be elected as may be given by the Local Government with a view to securing that at least four Indians and not more than four Government officials shall be members of the Board.

(3) A return of the name of every person elected as Trustee shall be made to the Local Government by the Chairman of the Chamber or Association concerned.

(4) If any more Trustees are required to make up the total strength of the Board, they shall be appointed by the Local Government.]

Publication of names of Trustees.

[1][**9.** The names of persons appointed or elected as Trustees shall be published in the *Fort St. George Gazette.*]

[1] Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of Madras Act IV of 1923.

Disqualifications for office of Trustee.

[1][10. (1) No person shall be qualified to be a Trustee who

(*a*) is not a British subject or a subject of a State in India, or

(*b*) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Local Government disqualifies him from being a Trustee, if such sentence has not been reversed, set aside, or remitted, or

(*c*) is an uncertificated bankrupt or undischarged insolvent, or

(*d*) holds any office or place of profit under the Board :

Provided that this disqualification shall not apply to the Chairman, who may, subject to the sanction of the Local Government, be permitted to hold any of the offices under the Board referred to in section 30 ;

(*e*) 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.

No person shall be deemed to have a share or interest in such work, contract, or employment by reason only of his

(i) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(iii) being interested in any loan of money to the Board, or

(iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same, or

(v) having a share or interest in any licence by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway siding or any berth for vessels in the docks belonging to the Board, or

(vi) having a share or interest in the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades, or

(vii) being a person to whom, or a member of a firm or company to which, any of the functions specified in clauses (*a*) and (*b*) of sub-section (1) of section 39 shall have been relinquished under section 41-A.

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1 Vide footnote to section 7.

(2) Any Trustee who

(*a*) becomes disqualified for any of the aforesaid reasons, or

(*b*) refuses to act or becomes incapable of acting, or

(*c*) is absent from the meetings of the Board for a period exceeding six consecutive months, or, without the permission of the Board previously obtained, from six consecutive ordinary meetings of the Board,

shall cease to be a Trustee, and his office shall thereupon become vacant.]

[1][**11.** The Chairman shall hold office during the pleasure of the Local Government. The remaining Trustees shall hold office for a term of two years from date of election or appointment as the case may be, but the Local Government may at any time accept the resignation of any Trustee.] Term of office of Chairman and Trustees.

[1][**12.** Any person ceasing to be a Trustee shall, unless disqualified under sub-section (1) of section 10, be eligible for re-election or re-appointment.] Eligibility of Trustees for re-election or re-appointment.

[1][**13.** On the occurrence of vacancy in the office of a Trustee elected under section 8, the vacancy shall be filled up within one month by the Chamber or Association concerned in the manner provided therein. If the Chairman or any other Trustee appointed under section 8 ceases to hold office, the Local Government may appoint a Chairman or a Trustee as the case may be.] Election or appointment of Chairman or Trustee in casual vacancy.

[1][* * * *]

18. In the event of default being made[2] [* * * *] in electing any Trustee under [3][* * *] [section 8 or section 13][4] within the period prescribed in this behalf, it shall be lawful for the Local Government,[5] [* * *] to nominate a person, and the person so nominated shall be deemed to be an elected Trustee. Nomination of elected Trustees by Local Government in default of election.

19. The Local Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person appointed by the Local Government 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. Grant of leave of absence to Chairman.

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[1] Vide footnote to section 7.

[2] The words "by the Chamber of Commerce or Trades Association" after the words "being made" were omitted by section 7 of Madras Act II of 1915 .

[3] The words and figures "section 12 or" were omitted by section 6 of Madras Act IV of 1923.

[4] The words and figures "section 8 or section 13" were substituted for the word and figure "section 15" by *ibid.*

[5] The words "by notification in the *Fort St. George Gazette*" were omitted by *ibid.*

Appointment of acting Trustee.

20. When any Trustee departs from the City of Madras with the intention of being absent for a longer period than three months, the Local Government may appoint some other person to act in the place of such absent Trustee until he returns to the City of 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.

Remuneration to the Chairman and acting Chairman.

[1][**21.** The Local Government may from time to time determine the remuneration to be paid as salary, leave allowances or other allowances to the Chairman and to the person appointed under section 19 to act for the Chairman during his absence on leave and may declare any conditions and restrictions upon and under which such remuneration shall be payable.]

Fees payable to Trustees.

[2][**22.** It shall be lawful for the Local Government to determine from time to time the fees to be paid to the Trustees other than the Chairman for attendance at meetings, and to prescribe conditions and restrictions upon and under which such fees shall be payable.]

Provisions concerning Board's proceedings.

23. The following provisions shall be observed with respect to the proceedings of the Board, namely :—

Meetings, etc., for transaction of business.

[3][(1)] 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 its meetings, and generally with respect to the transaction of business, as it may think fit, subject to the following conditions, namely :—

Ordinary fortnightly meetings.

(*a*) that a meeting shall be held once at least in every fortnight ;

Special meetings.

(*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 ;

Quorum.

(*c*) that no business shall be transacted at any meeting unless at least five Trustees are present throughout such meeting ;

President at meetings.

(*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 and while he is absent, by such one of the Trustees present as may be chosen by the meeting ;

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[1] This section was substituted by section 7 of Madras Act IV of 1923.

[2] This section was substituted by section 8 *ibid.*

[3] Old sub-section (1) was repealed and remaining sub-sections renumbered by section 9 *ibid.*

(*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 ; Decision of questions by majority of votes.

(*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 ; Demand of poll.

(*g*) that minutes shall be kept [* * *][1] 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. Minutes of proceedings.

(*h*) The President may, with the consent of any meeting, adjourn it. Adjournment of meetings.

(*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*. Transmission of minutes to Government and their publication in Gazette.

[2][(2)] The Board may, from time to time, appoint Committees consisting of not less than five of its 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. Appointment of Committees by Board.

[2][(3)] A Committee may elect a Chairman of its 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 the meeting. President at meetings of Committees.

[2][(4)] 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. Meetings of Committees.

[2][(5)] 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. Decision of questions at meetings of Committees.

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[1] The words "by the Secretary" were omitted by section 8 of Madras Act II of 1915.

[2] Vide footnote 3 on the previous page.

Quorum in Committees.

[1][(6)] 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.

Restriction on power of Trustees to vote or discuss matters in which they are interested.

[2][**23 A.** No trustee shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Board or of any Committee if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner, or in which he is interested professionally on behalf of a client or as agent for any person other than the Government, a local authority or a railway company.]

Validation of acts and proceedings.

24. No act or proceeding of the Board or of a Committee shall be invalid in consequence only of there 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.

Delegation of powers to Chairman.

25. (1) The Board may, by resolution in writing, with the sanction of the Local Government, prescribe which of the powers and duties by this Act conferred or imposed upon the Board may be exercised and performed by the Chairman.

(2) The Board may, from time to time, with the like sanction, alter or cancel any such resolution.

Duties of Chairman.

26. 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 rules and regulations made under sections 28 and [92][3] and to the schedule for the time being in force framed by the Board under section 27, dispose of all questions relating to the service of the officers and servants of the Board, and their pay, privileges, and allowances.

CHAPTER III.

Officers and Servants other than the Chairman.

Schedule of Board's staff.

27. The Board shall, from time to time, prepare and sanction a schedule of the staff of officers [other than the Chairman][4]

[1] Vide foote-note 3 at page 602.

[2] This section was added by section 10 of Madras Act IV of 1923.

[3] The section was 93 of the original Act, which was altered into 92 by section 16 of Madras Act II of 1915.

[4] The words "other than the Chairman" were added by section 11 of Madras Act IV of 1923.

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.

Provided that artisans, porters and labourers, and the suppliers of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of sections 28 and 29.

28. The Board [may][1], from time to time, frame regulations—

(1) for regulating the grant of leave to the officers (other than the Chairman) and servants of the Board ; — Power to frame regulations regarding leave

(2) for authorizing the payment of allowances to the said officers and servants, or to any of them, whilst absent on leave ; — absentee allowances,

(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 ; — acting allowances,

(4) for regulating the period of service of all such officers and servants ; — length of service,

(5) for determining the conditions under which such officers and servants or any of them [may become][2] entitled, on retirement, to pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ; — pensions, etc., and

(6) for authorizing the payment of contributions at prescribed rates and subject to prescribed conditions to any provident fund, which may, with the Board's approval, be established by the officers and servants appointed under this Act, or to such provident fund, if any, as may be established by the Board, with the approval of the Local Government, for the benefit of such officers and servants ; — contributions to provident fund.

(7) for determining the conditions under which pensions, gratuities, or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants [who died while in the service of the Board.][3] — Pensions in the case of subordinates injured or who died while in the service of the Board.

Subject to the provisions of section 94 all pensions, contributions, and allowances mentioned in this section shall be chargeable to the general fund of the Board.

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[1] This word was substituted for "shall" by section 12 of Madras Act IV of 1923.

[2] The words "may become" were substituted for the words "shall be" by *ibid.*

[3] The words "who died while in the service of the Board" were substituted for the words "killed in the execution of their duty" by *ibid.*

Proviso.

Provided that the regulations framed under clauses (5), (6) and (7) of this section shall be subject to the approval of the Local Government.

Power to frame regulations for artisans, porters, etc.

[1] [**28-A.** Notwithstanding anything contained in sections 27 and 28, the Board may, subject to the sanction of the Local Government, frame regulations of the nature mentioned in clauses (5) to (7) of section 28 for the benefit of artisans, porters and labourers and the suppliers of porters and labourers; and subject to the provisions of section 94 all pensions, contributions and allowances payable under any such regulation and any payments of the same nature that have already been made shall be chargeable to the general fund of the Board.]

Power to appoint, punish, or grant leave to officers and servants.

29. (1) Subject to the provisions of section 30 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.

Power of dispensing with services or permitting retirement of officers or servants.

(2) 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.

Prior sanction of Local Government to orders or regulations of Board.

30. Every order or regulation made by the Board under sections 27, 28 and 29 shall, so far as the same relates to the Secretary, Engineer, Traffic Manager [Chief Accountant of the Board, or to the Deputy Conservator of the port][2] be subject to the previous sanction of the Local Government.

In this section the word "Engineer" means the Engineer of the highest grade on the Board's ordinary staff and also any one who may from time to time be employed as Consulting Engineer to the Board on a monthly salary.

CHAPTER IV.

PROPERTY OF THE BOARD.

Property vested in Board.

31. From and after the coming into force of this Act, the several immovable properties specified in Schedule II and all movable property held by or in trust for the Board of Trustees of the Harbour of Madras shall vest in the Board but subject to all charges and liabilities affecting the same.

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[1] This section was added by section 13 of Madras Act IV of 1923.

[2] The words "Chief Accountant of the Board, or to the Deputy Conservator of the Port" were substituted for the words "or Chief Accountant of the Board" by section 14 *ibid.*

Power to acquire, hold or alienate property.

32. The Board shall, for the purposes of this Act, have power to acquire and hold immovable or movable property, whether within or without the limits of the port, and the Board shall also have power to lease or sell any immovable or movable property which may have become vested in or acquired by it.

Provided that no such acquisition of immovable property not being an acquisition from the Secretary of State for India in Council shall be valid unless the consent of the Local Government to such acquisition shall have been first obtained.

Provided also that no such sale or lease for any term exceeding ten years of any immovable property shall be valid unless the sanction of the Local Government thereto shall have been first obtained.

Application of Land Acquisition Act.

33. When any immovable property is required for the purposes of this Act, the Local Government may declare that such property is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same under the Land Acquisition Act, 1894. Such property, when so acquired, shall, on payment by the Board of the compensation awarded and all costs connected with its acquirement, be deemed to be vested in the Board.

I of 1894.

34. [*Repealed by Schedule I to Madras Act IV of* 1919.]

CHAPTER V.

Works and Services.

Power to execute works and provide appliances.

35. The Board may execute such works and provide such appliances as the Board may determine to be necessary or expedient for the purposes of the port.

36. Such works and appliances may include—

General nature of works to be executed or appliances to be provided.

(1) wharves, quays, docks, stages, jetties and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, landing places, stairs, fences, roads, railways and approaches ;

[1][(2) railways, tramways, locomotives, rolling-stock, sheds, warehouses and other accommodation for passengers and goods and other appliances for carrying passengers and for conveying, receiving and storing goods, landed, or to be shipped or otherwise ;]

[1] This clause was substituted for the original clause (2) as substituted by section 9 of Madras Act II of 1915, by section 15 of Madras Act IV of 1923.

(3) moorings for carrying out the purposes of this Act, and 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 port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act ;

(5) such breakwaters and other works within or without the limits of the port as shall be expedient for the protection of the harbour or port ;

(6) dredgers and other machines for cleaning, deepening and improving any portion of the port or foreshore ;

(7) pilot-boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;

(8) vessels, steam tugs or other boats for use as well within the limits of the port as beyond those limits, whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property and for the purpose of landing, shipping or transhipping [passengers or][1] goods under section 39 ;

(9) boats, barges, and other appliances necessary in connexion with the supply of water to shipping in the port ;

(10) engines and other appliances necessary for the extinguishing of fires in the port and on the property of the Board ;

(11) 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 order survey or examination of works.

37. The Local Government 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 moneys in the Board's hands by virtue of this Act.

Power of Local Government to restore or complete works at the cost of Board.

38. If, at any time, the Board allow any work or appliance constructed or provided by the Board or vested in it under this Act to fall into disrepair,

or do not, within a reasonable period, complete any work commenced by the Board, or included in any estimate sanctioned by the Local Government,

[1] Those words were inserted by section 9 of Madras Act II of 1915.

or do not, after due notice in writing, proceed to carry out effectually any work or repair or to provide any appliance which is necessary in the opinion of the Local Government for the purposes of this Act,

the Local Government may cause such work to be restored or completed or carried out, or such repair to be carried out, or such appliance to be provided; and the cost of any such restoration, completion, construction or provision 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 the [Local Authorities Loans Act, 1914.][1]

Performance of services by the Board.

[2][**39.** (1) The Board shall, according to its powers, provide all reasonable facilities for and shall have power to undertake the following services :—

(*a*) landing, shipping, or transhipping passengers and goods between vessels in the port and the wharves, piers, quays or docks in possession of the Board;

(*b*) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises;

(*c*) carrying passengers by rail, tramway or otherwise within the limits of the port, subject to such restrictions and conditions as the Local Government may see fit to impose; and

(*d*) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the port and intended for carriage by the neighbouring railways, or *vice versa*, as a railway company or administration under the Indian Railways Act, 1890.

(2) The Board shall, if so required by any owner, perform in respect of goods all or any of the services mentioned in clauses (*a*), (*b*) and (*d*) of sub-section (1), provided that the Board shall not be bound to perform any service which it has relinquished under the provisions of clause (*a*) of sub-section (1) of section 41-A.

(3) The Board shall, if required, take charge of the goods for the purpose of performing the service and shall give a receipt in the form and to the effect prescribed from time to time by the Local Government.

After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or

[1] The words and figures "Local Authorities Loans Act, 1914" were substituted for the words and figures "Local Authorities Loan Act, 1879" by section 32 of Madras Act IV of 1923.

[2] Sections 39 to 41-A were substituted for sections 39 to 41 by section 16 *ibid.*

damage which may occur to them shall attach to any person to whom a receipt shall have been given or to the master or the owner of the vessel from which the goods have been landed or transhipped.]

Responsibility of Board for loss, etc., of goods.

[1][**40.** (1) The responsibility of the Board for the loss, destruction or deterioration of goods of which it has taken charge shall, subject to the other provisions of this Act and subject also in the case of goods received for carriage by railway to the provisions of the Indian Railways Act, 1890, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, omitting the words "in the absence of any special contract" in section 152 of the last-mentioned Act. Provided that, till the receipt mentioned in sub-section (3) of section 39 is given by the Board, the goods shall be at the risk of the owner.

(2) The Board shall not be in any way responsible for loss of or damage to goods of which it has taken charge, unless notice of such loss shall have been given within one month of the date of the receipt given for the goods under sub-section (3) of section 39.]

Performance of services by persons to whom the services have been relinquished by the Board.

[1][**41.** (1) Any person to whom any or all of the services under clauses (*a*) and (*b*) of sub-section (1) of section 39 has or have been relinquished under section 41 A, shall if so required by the owner, perform in respect of goods any of the services so relinquished and for that purpose take charge of the goods and give a receipt in the form and to the effect prescribed from time to time by the Local Government.

(2) The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge 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.]

Relinquishment of services subject to the control of the Local Government.

[1][**41 A.** (1) The Board may, subject to the sanction of the Local Government and to such conditions as the Local Government may prescribe,

(*a*) enter into an agreement relinquishing the performance of any of the services specified in clauses (*a*) and (*b*) of sub-section (1) of section 39 to an approved person, or,

(*b*) enter into an agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 40 ;

(2) Every agreement entered into under this section shall be in writing and signed by or on behalf of the parties concerned ;

[1] Vide footnote to section 39.

(3) No person to whom the performance of any service specified in clause (*a*) or (*b*) of sub-section (1) of section 39 is relinquished shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under section 42, section 43 or section 43-A if such service were performed by the Board ;

(4) Notwithstanding such relinquishment, the Board may charge dues according to the scales laid down in sections 42, 43 and 43-A for the use of its works or appliances or for other services connected with that which has been relinquished without thereby incurring any liability under section 40.]

CHAPTER VI.

Imposition and Recovery of Rates.

Scale of rates.

[1][**42.** The Board shall frame a scale of rates at which and a statement of the conditions under which any of the services specified hereunder shall be performed by itself or by a person to whom any service has been relinquished under section 41-A or partly by one and partly by the other :—

(*a*) transhipping of passengers or goods between vessels in the harbour ;

(*b*) landing and shipping of passengers or goods from or to such vessels to or from any wharf, quay, pier, dock, land or building in the possession or occupation of the Board or at any place within the limits of the port ;

(*c*) cranage or porterage of goods on any such place ;

(*d*) wharfage, storage or demurrage of goods on any such place ;

(*e*) any other service in respect of vessels, passengers or goods.]

Scale of rates and Statement of conditions for use of property belonging to the Board.

[2][**43.** The Board shall also frame a scale of rates on payment of which and a statement of conditions under which any property belonging to or in the possession or occupation of the Board or any place within the limits of the port may be used for the purposes specified hereunder :—

(*a*) approaching or lying at or alongside any moorings, wharf, quay, pier, dock, land, buildings or places aforesaid by vessels or boats ;

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[1] This section was substituted for section 42 as substituted by section 12 of Madras Act II of 1915, by section 17 of Madras Act IV of 1923.

[2] Section 43 and section 43-A were substituted for the original section 43 as amended by section 13 of Madras Act II of 1915, by section 18 of Madras Act IV of 1923.

(*b*) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place aforesaid by animals or vehicles carrying passengers or goods ;

(*c*) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents ;

(*d*) any other use of any land, works or appliances belonging to or provided by the Board.]

Consolidated rates for combination of services.

[1][**43 A.** The Board may prescribe consolidated rates for any combination of the services specified in section 42 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 43.]

Prior sanction of Local Government to such scales.

44. (1) Every scale [2][and every statement of conditions] framed by the Board under section 42,[3] [section 43 or section 43-A] shall be submitted to the Local Government for sanction ; and, when so sanctioned and published in the *Fort St. George Gazette*, shall have the force of law ; and subject to the like sanction and publication may from time to time be amended or added to by the Board.

Remission of rates, in special cases.

(2) The Board may, in special cases, with the previous sanction of the Local Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section. [4][It may also on its own initiative correct mistakes, remit overcharges made in its bills, and write off irrecoverable sums up to a limit of Rs. 200 in each case.]

Power to fix Maxima and Minima rates.

[5][(3) In respect of any item of any scale of rates framed under the powers conferred by section 42, [3][section 43, or section 43-A] the Board, with the previous sanction of the Local Government, may prescribe, instead of a fixed rate, maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum thus laid down.]

Refund of overcharges.

[6][**44 A.** No person shall be entitled to a refund of an overcharge [7][* * *] unless his claim to the refund has been preferred in writing by him or in his behalf to the [7][Board] within six calendar months from the date of payment.]

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[1] Section 43 and section 43 A were substituted for the original section 43 by section 18 of Madras Act IV of 1923.

[2] These words were inserted by section 8 of Madras Act II of 1919.

[3] The words and figures "section 43 or section 43-A" were substituted for the words and figures "or section 43" by section 32 of Madras Act IV of 1923.

[4] These words were added by section 14 of Madras Act II of 1915.

[5] This sub-section was added by section 14 of Madras Act II of 1915.

[6] This section was added by section 9 of Madras Act II of 1919.

[7] The words "in respect of animals or goods landed at the harbour, if for import, or admitted into the harbour premises, if for export" were omitted and the word "Board" substituted for "Port Trust" by section 19 of Madras Act IV of 1923.

Power to increase rates to cover deficiency of revenue.

45. (1) 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 in Council or to any other creditor, and of any sinking fund established under section 69 and of any sum the repayment of which is due in pursuance of any terms under section 63 ;

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 for the payment of the said interest, sinking funds and sums due ;

the Board may, and upon the requisition of the Local Government shall, increase the rates, for the time being in force, to such extent as will render the estimated income of the year sufficient, as nearly as may be, for the payment in full of the said interest, sinking funds and sums due.

(2) Such increased rates shall be fixed by the Board, and shall be submitted to the Local Government, and, if approved by the Local Government, 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 Local Government.

Power of Local Government to enhance rates if Board fails to do so.

46. If the Board shall, for fifteen days after the receipt by the Chairman of any such requisition from the Local Government, neglect or refuse to submit to the Local Government for approval such increased rates the Local Government may, by notification in the *Fort St. George Gazette*, increase such rates as they think fit ; and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed under section 42,[1] [section 43 or section 43-A] and sanctioned and published under section 44.

Disability of Board to lease rates without sanction of Local Government.

47. The Board shall not lease, farm, sell or alienate any power vested in it under this Act of levying rates, without the assent of the Local Government.

Payment of fines and damages to Board.

48. All moneys recovered from any [person][2] under this Act by way of fine or damages shall be paid to the Board.

[1] The words and figures "section 43 or section 43 A" were substituted for the words and figures "or section 43" by section 32 of Madras Act IV of 1923.

[2] The word "person" was substituted for "offender" by section 20 *ibid.*

Payment of balance of Madras Port Fund to Board.

49. The Local Government may, in their discretion, at any time direct that the whole or any portion of the balance of the moneys credited under [the Indian Ports Act, 1908][1] to the account of the Port Fund of Madras, after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board for the purposes of this Act.

Time for payment of rates on goods.

50. 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, or transhipped, shall be payable before the goods are removed or shipped or transhipped.

Lien for rates.

51. For the amount of all rates leviable under this Act in respect of any goods [and for the rent due to the Board on any buildings, plinths, stacking areas or other premises on or in which any goods may have been placed][2] the Board shall have a lien on such goods, and may seize and detain the same until such rates are fully paid.

Priority of lien of Board over other liens and claims.

52. [Such lien][3] shall have priority over all other liens and claims, except for general average and for the ship-owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided in section 53, and for primage, and for money payable to His Majesty or the Secretary of State for India in Council.

Preservation of lien for freight after goods are landed.

53. 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 dock, 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 including landing 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.

54. Such goods shall be retained in the custody of the Board, or with the consent of the Chief Officer of Customs in the public customs wharves and warehouses, at the risk and expense of the owners of the said goods until such lien is discharged as hereinafter mentioned; and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

Discharge of ship-owner's lien for freight.

55. 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 whom or on whose behalf such notice has been given, the Board may permit such goods to be removed

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[1] The words and figures "the Indian Ports Act, 1908," were substituted for the words and figures "the Indian Ports Act, 1889," by section 32 of Madras Act IV of 1923.

[2] These words were added by section 21 *ibid.*

[3] The words "Such lien" were substituted for the words "the lien for such rates" by section 22 *ibid.*

without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

Sale of goods after two months if rates or rents are not paid or lien for freight is not discharged.

[1][**56.** It shall be competent to the Board, at the expiry of two months from the time when any goods have passed into its custody, or in the case of perishable goods at the expiry of such shorter period not being less than 24 hours as the Board shall think fit, to sell by public auction so much as may be necessary of such goods, (*a*) if any rates payable to the Board in respect of such goods have not been paid; or (*b*) if any rent referred to in section 51 in respect of any place on or in which such goods have been stored has not been paid; or (*c*) if any lien of any ship-owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charges has made an application for such sale.]

Notice of sale.

57. 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 to owner.

58. 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.

Application of sale-proceeds.

59. (1) 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 52 from the priority of the lien of the Board;

(*c*) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

(2) 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

[1] This section was substituted by section 23 of Madras Act IV of 1923.

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.

Recovery of rates and charges by distraint of vessel.

60. If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any by-laws, 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 that 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;

and, in case any part of the said rates of 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 or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Grant of port-clearance after payment of rates.

61. 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 or penalties chargeable under this Act, or under any by-laws, rules 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.

Alternative remedy by suit.

62. Notwithstanding anything contained in the twelve sections last preceding and in section 48, the Board may recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Board under this Act or under any by-laws made in pursuance thereof.

CHAPTER VII.

[THE BORROWING POWERS OF THE BOARD][1]

Power to raise loans.

[2][**63.** (1) The Board may, with the previous sanction of the Local Government, and, in the case of a loan of an amount

[1] These words were substituted for the word "Loans" by section 24 of Madras Act IV of 1923.

[2] Sections 63, 64, 64 A and 64 B were substituted for original sections 63 and 64 by section 25 *ibid.*

of not less than 5 lakhs of rupees, of the Governor-General in Council, and after due notification in the *Fort St. George Gazette*, raise loans for the purposes of this Act.

(2) Loans may be raised in the open market on Port Trust Securities or obtained from the Local Government or the Government of India. The terms of all loans shall be subject to the approval of the Governor-General in Council.]

Port Trust Securities.

[1][**64.** (1) The Board may, with the sanction of the Local Government, prescribe the form in which Port Trust securities shall be issued, the mode in which and the conditions subject to which they may be transferred.

(2) The right to sue in respect of moneys secured by Port Trust Securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date.]

Indian Securities Act applicable to Port Trust Securities.

[1][**64 A.** The provisions of sections 4, 5, 8, 9, 10 and 15 of the Indian Securities Act, 1920, shall *mutatis mutandis* apply to all securities issued by the Board.]

X of 1920.

Power to frame rules.

[1][**64 B** (1) The Board may from time to time make rules to provide for all or any of the following matters, viz. :—

(*a*) the person, if any, authorized to sign, the mode of affixing the corporate seal and of attestation of documents relating to Port Trust Securities ;

(*b*) the manner in which payment of interest in respect of Port Trust Securities is to be made and acknowledged ;

(*c*) the circumstances and the manner in which Port Trust Securities may be renewed ;

(*d*) the circumstances in which such securities must be renewed before further payment of interest thereon can be claimed ;

(*e*) the form in which securities delivered for renewal and conversion are to be receipted ;

(*f*) the proof which is to be produced by persons applying for duplicate securities ;

(*g*) the form and manner of publication of the notification mentioned in sub-section (2) of section 10 of the Indian Securities Act, 1920, as applied to Port Trust Securities and the manner of publication of the list mentioned in sub-section (3) of that section ;

(*h*) the nature and amount of indemnity to be given by a person applying for the payment of interest on

[1] Vide footnote to section 63.

[1][Port Trust Securities] alleged to have been wholly or partly lost or destroyed, or for the issue of duplicate [1][Port Trust Securities].

(*i*) the conditions subject to which Port Trust Securities may be converted ;

(*j*) the amounts for which stock certificates may be issued ;

(*k*) generally, all matters connected with the grant of duplicate, renewed and converted securities ;

(*l*) the fees to be paid in respect of the issue of duplicate securities and of the renewal and conversion of Port Trust Securities ;

(*m*) the fees to be levied in respect of the issue of stock certificates.

(2) The power to make rules under sub-section (1) is subject to the following conditions :—

(1) A draft of the rules shall be published in three consecutive issues of the *Fort St. George Gazette.*

(2) The same shall have no effect until approved by the Local Government after such publication and until such approval has also been published in the *Fort St. George Gazette.*

(3) It shall be lawful for the Local Government at any time by notification to cancel any rule published under the provisions of this section.]

Place and currency of loans raised.

65. All loans contracted by the Board shall be raised in India, and in Indian currency, unless the Local Government, with the previous sanction of the Governor-General in Council, shall, by a notification in the Gazette, otherwise direct.

Security for loans.

66. All loans may be raised on the security of—

(*a*) the property now vested, or which may hereafter become vested, in the Board, other than any sums set apart by the Board as a sinking fund for the purpose of paying off any loan ; and

(*b*) the tolls, dues, rates, rents and charges leviable under this Act.

Remedies of Secretary of State in respect of loans made to Board.

67. The Secretary of State for India in Council shall have, in respect of loans made by him to the Board, or to the Trustees of the Harbour of Madras, the same remedies as [holders of Port Trust Securities][2] ; and he shall not be deemed to possess any prior or greater rights in respect of such loans than [holders of Port Trust Securities.][2]

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1 The words "Port Trust Securities" were substituted for the word "debentures" by section 2 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

2 The words "holders of Port Trust Securities" were substituted for the words "debenture-holders" by section 3 *ibid.*

Power to repay loans before due date.

68. The Board may apply any sums, which can be so applied without prejudicing the security of the other [holders of Port Trust Securities][1], in repaying to the Secretary of State for India in Council any sum which may remain due to him in respect of the principal of any loan, although the time fixed for the repayment of the same may not have arrived :

Provided that no such repayment shall be made of any sum less than ten thousand rupees ; and that, if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Establishment of sinking fund

69. In the case of loans raised by the Board which are not repayable before the expiration of one year from the date of the loan, the Board shall set apart half-yearly out of its income as a sinking fund a sum sufficient to liquidate the loan within a period which shall not in any case, unless the previous consent of the Governor-General in Council shall have been obtained, exceed thirty years ; but the maximum period shall not in any case exceed sixty years. Provided that a sinking fund need not in the absence of any stipulation to that effect be established in the case of loans taken from the Secretary of State for India in Council.

Investment of sinking fund.

70. (1) The sums so set apart shall be invested in securities of the Government of India, or in [2] [Port Trust Securities] and shall be held in trust for the purposes of the Act by two trustees, one being the Board, and the other a person appointed by the Local Government.

Application of sinking fund.

(2) The Board may apply the whole or any part of the sums accumulated in the sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established, provided that it pays into the fund in each year, and accumulates until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

Examination of sinking fund.

71. The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, Madras, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The trustees shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient.

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[1] The words "holders of Port Trust Securities" were substituted for the words "debenture-holders of the Board" by section 4 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

[2] The words "Port Trust Securities" were substituted for the words "the Board's debentures" by section 5 *ibid.*

Interest on outstanding debt.

72. (1) The debt already incurred to the Secretary of State for India in Council shall be deemed to have borne interest at the rate of four per cent per annum from, and after, the first day of April 1902, and shall in future bear interest at the said rate, and any payments of interest on such debt at the said rate made after the first day of April 1902 shall be deemed to have been full and sufficient payments of interest.

Repayment of outstanding debt.

(2) The outstanding balance of the debt already incurred to the Secretary of State for India in Council shall be repaid upon such terms as to the time of repayment, and otherwise, as the Governor-General in Council may approve.

Power to raise loan on short-term bills.

[1][**73.** Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914.] IX of 1914

CHAPTER VIII.

EXPENDITURE.

Objects on which Board may spend money.

74. Subject to the provisions of section 94 and 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 the Board thereunder, and all moneys acquired by the Board under or by virtue of this Act shall be applied by the Board as follows and in the following order, namely :—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys due to the Chairman, officers and servants appointed under this Act, and the contributions, if any, authorized to be made to any provident fund established for the benefit of the said officers and servants ;

(2) the cost of repairs to and the maintenance of the property vested in the Board, and all charges upon the same and all working expenses ;

(3) the payment of any interest which is from time to time owing by the Board ;

(4) payments to sinking funds and the repayment of the principal of loans as they fall due ;

[2][(5) payments to reserve funds ;]

[1] This section was substituted by section 26 of Madras Act IV of 1923.

[2] Clause 5 was inserted by section 6 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

[1][(6)] the cost or portion of the cost of any new work, plant, vessel, or appliance which the Board may determine to charge to revenue ;

[1][(7)] the remuneration of the trustees ; and

[1][(8)] generally for the purposes of this Act.

Establishment of reserve fund.

[2][**74 A.** (1) The Board may, out of its surplus income, set apart, from time to time, such sums as it thinks fit as a reserve fund or funds, for providing for all or any of the following cases, namely :—

(*a*) any temporary decrease of income ; or

(*b*) any temporary increase of expenditure ; or

(*c*) replacement expenditure ; or

(*d*) expenditure to make good loss or damage from fire, cyclone, shipwreck or other accident ; or

(*e*) any other emergency arising in the conduct of its work under this Act :

Provided that the sums set apart annually in respect of, and the aggregate, at any time of, any such reserve fund shall not exceed such amounts as may from time to time be fixed in that behalf by the Local Government.

(2) Any such reserve fund or funds shall be invested in the securities of the Government of India or in Port Trust Securities.]

Prior sanction of Local Government to charge expenditure to capital.

75. No expenditure shall be charged by the Board to capital without the previous sanction of the Local Government.

Works requiring sanction of Board or Local Government.

76. No new work, or appliance the estimated cost of which exceeds two thousand rupees, shall be commenced or provided by the Board, nor shall any contract be entered into by the Board in respect of any such new work or appliance 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 or appliance shall exceed [fifty thousand rupees,][3] it shall not be commenced or provided until such plan and estimate have been sanctioned by the Local Government.

Restriction of expenditure to budget grant.

77. Save in a case of pressing emergency, the Board shall not, without the assent of the Local Government, spend on any item of expenditure any greater sum than shall have been allotted for that item in an estimate approved by the Local Government and for the time being in force.

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1 The original sub-sections (5), (6) and (7) were renumbered (6), (7) and (8) by section 6 of Madras Act VII of 1929.

2 Section 74-A was inserted by section 7 *ibid.*

3 The words " fifty thousand rupees " were substituted for the words twenty-five thousand rupees " by section 15 of Madras Act II of 1915.

Limit to excess of expenditure over budget grant.

78. In a case of pressing emergency the Board may, without the assent of the Local Government, spend on any item of expenditure, on which the Board is empowered to spend money under this Act,

(1) any sum not exceeding five thousand rupees in excess of any sum which may have been allotted for that item in an estimate approved by the Local Government and for the time being in force ;

(2) any sum not exceeding five thousand rupees on any item, for which no funds have been allotted in any such estimate.

Provided that whenever the Board sanctions any expenditure under this section the Chairman shall forthwith report to the Local Government the circumstances of the case and the manner in which the Board proposes to meet the expenditure.

CHAPTER IX

Accounts, Estimates and Contracts.

Audit and examination of accounts.

[1][**79**] The accounts of the receipts and expenditure of the Board shall, once in every year, be laid before the Local Government and shall be audited and examined by such auditors as shall, from time to time, be appointed by the Local Government. 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 documents 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 explanation thereof.

Power of auditors to call for books, etc.

Publication of audit report.

[1][**80**] Within fourteen days after the audit and examination have been completed, the auditors shall report upon the accounts audited and examined, and shall forward copies of their report to the Local Government and to the Board. The Board shall cause the report and an abstract of the accounts to be published in the *Fort St. George Gazette* [2][* * *]

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1 The present sections 79 to 92 were sections 80 to 93, respectively in the Original Act and the references to those sections were altered accordingly—vide section 16 of Madras Act II of 1915.

2 The words " and in some one or more of the daily newspapers published in Madras " which occurred at the end of this section were omitted by section 17 of Madras Act II of 1915.

[1][81] The auditors shall be paid by the Board such remuneration as the Local Government shall determine. Auditors' remuneration.

[1] [82] The Chairman shall, at a special meeting to be held on or before the twentieth day of January in each year, lay before the Board an estimate of the income and expenditure of the Board for the financial year then next ensuing. Every such estimate shall be in such form as the Local Government shall direct. Submission to Board of annual estimate of income and expenditure.

[1][83] 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 [* * * *][2] prior to the day appointed for the special meeting before which the estimate is to be laid under section 82. [1] Circulation of estimate to Trustees.

[1] [84] It shall be in the discretion of the Board, at such meeting, to pass or to reject, the estimate, or to modify or alter it, and to pass it as so modified or altered. Revision and passing of estimate.

[1] [85] (1) Every such estimate, when so passed by the Board, shall be submitted to the Local Government not later than the tenth day of February; and the Local Government may either approve the estimate, or may return it with remarks and may call for such additional information as they may deem necessary; and the Board shall forthwith proceed to reconsider the estimate with reference to such remarks, and shall furnish such additional information as the Local Government may call for and shall, if necessary, modify or alter the estimate and shall re-submit it to the Local Government. Approval of estimate by Local Government.

(2) The Local Government shall then pass, reject or modify all or any of the items entered in the estimate or add thereto any items. Provided that no such modification, rejection or addition be inconsistent with the provisions of this Act or involve the raising of a loan.

[1] [86.] The Board may, in the course of any year for which an estimate has been approved by the Local Government, cause one or more supplemental estimates for the residue of such year to be prepared and laid before the Board; and thereupon such proceedings shall be had as by sections 83 [1], 84 [1] and 85 [1] are directed to be had with respect to the estimate therein mentioned. Every such supplemental estimate shall be considered by the Board and submitted to the Local Government in the same manner as if it were an original annual estimate. Preparation of supplemental estimates.

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1 The present sections 79 to 92 were sections 80 to 93, respectively, in the original Act—vide section 16 of Madras Act II of 1915.

2 The words "at least" were omitted by section 10 of Madras Act II of 1919.

Power to enter into contracts.

[1][87.] The Board may enter into contracts for carrying into effect the purposes of this Act.

Provided always that no contract, under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Board, shall be valid without the assent of the Local Government.

Mode of executing contract.

[1 & 2] [88. Subject to such restrictions or conditions as the Board may prescribe, the Chairman may, for, and on behalf of, the Board, enter into any contract in like manner and form as if such contract were on his own behalf.]

Power to compound or compromise claims.

[1][89.] The Board may compound or compromise any claim or demand arising out of any contract entered into by the Board or any action or suit instituted by or against the Board.

CHAPTER X.

PILOTS AND HARBOUR-MASTERS.

Pilotage fees.

[1][90.] The Board shall have the right and privilege of maintaining pilots or harbour-masters for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board.

Appointment of pilots.

[1][91.] No person shall be appointed to be a pilot or harbour-master by the Board who is not for the time being authorized by the Local Government under the provisions of [3][the Indian Ports Act, 1908] to pilot vessels.

Rules and regulations regarding pilots.

[1][92.] Notwithstanding anything contained in sections 27, 28 and 29, the Board may make [special rules and regulations,][4]

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots or harbour-masters, and

(*b*) for regulating the behaviour and conduct of pilots or harbour-masters,

and[4] [may enforce] the observance of such rules and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for every breach thereof, or by suspension or deprivation of appointment, or otherwise, as to the Board may appear expedient :

provided that such rules and regulations shall first have been approved by the Local Government, and published in the *Fort St. George Gazette*.

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[1] The present sections 79 to 92 were sections 80 to 93, respectively, in the original Act—vide section 16 of Madras Act II of 1915.

[2] This section was substituted by section 27 of Madras Act IV of 1923.

[3] Vide footnote to section 49.

[4] The words "special rules and regulations" were substituted for the words "such special rules and regulations as it shall think fit" by section 28 of Madras Act IV of 1923. The words "may enforce" were substituted for the words "shall enforce" by the same section.

[1][93. In the accounts of the Board, a pilotage account shall be kept separate from the general account. All fees for pilotage and all fines and penalties levied under this Act from pilots or harbour-masters or other persons employed in the pilot service shall be credited to the pilotage account and shall be held by the Board in trust.] Pilotage account.

94. All sums credited to the pilotage account under section [93][2] [may][3] be applied, in such proportions as the Board [may][3] from time to time direct, to the following purposes only, namely :— Expenditure on pilotage.

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board may deem it necessary to maintain or supply for the efficiency of the pilot service ;

(2) the payment of the salaries and allowances of pilots or harbour-masters and other officers and servants of the Board employed in the pilot service or in the supervision thereof ;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots or harbour-masters and other officers and servants engaged in the pilot service and of the contributions, if any, duly authorized to be made in their behalf to any provident fund ;

(4) the payment of pensions, gratuities, and compassionate allowances granted by the Board to pilots or harbour-masters and other officers and servants engaged in the pilot service, who have been injured in the execution of their duty and to the surviving relatives of pilots or harbour-masters, officers and servants so engaged, [who may die in the service of the Board.][3]

CHAPTER XI.

By-laws.

95. The Board may, from time to time, make by-laws not inconsistent with the provisions of this Act or of [the Indian Ports Act, 1908][4]. Power to frame by-laws.

(1) for the guidance of persons employed by the Board under this Act ;

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[1] This section was section 79 in the original Act. It was transferred from Chapter IX to Chapter X as section 93 and the references thereto were altered accordingly—vide section 16 of Madras Act II of 1915.

[2] Vide footnote [1].

[3] The word "may" for "shall" and the words "who may die in the service of the Board" for the words "who have been killed in the execution of their duty" were substituted by section 29 of Madras Act IV of 1923.

[4] Vide footnote to section 49.

(2) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways, and other works constructed by the Board or vested in the Board under this Act ;

(3) for the use of the public landing places constructed by or vested in the Board ;

(4) for the reception, porterage, storage and removal of goods brought within the premises of the Board and for the exclusive conduct of these operations by the Board or persons employed by the Board ;

(5) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon ;

(6) for the mode of the payment of the rates leviable under this Act ;

(7) for regulating, declaring and defining the docks, wharves, quays, jetties, stages, and piers vested in the Board on which goods shall be landed from vessels and shipped on board vessels ;

(8) for regulating the lighterage of cargo between ships or between ships and shore or between shore and ships ; [1][*].

[1][(9) for the exclusion from its premises of disorderly or other undesirable persons and of trespassers; and]

[1][(10)] generally for carrying out the purposes of this Act.

Validity of by-laws.

96. No by-law, or alteration or revocation of a by-law, shall have effect until the same has been published for three weeks successively in the *Fort St. George Gazette* and has been approved by the Local Government.

Penalties for infringement of by-laws.

97. The Board may in such by-law prescribe such penalties as it shall deem fit for the infringement of the same : provided that no penalty for any one infringement of a by-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 the first during which such infringement continues.

Exhibition of by-laws and scales of rates and charges.

98. The Board shall cause the said by-laws and the scales of rates leviable by the Board [2][together with a statement of the conditions under which it is prepared to render services] [3][or to provide for services to be rendered.] [4][ ] to be hung up at the several wharves, docks, and piers and other convenient places on the premises of the Board.

Cancellation of by-laws.

99. The Local Government may, by an order published in the *Fort St. George Gazette* at any time, annul any such by-law.

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1 The word " and " was omitted and clause (9) was inserted by section 18 of Madras Act II of 1915. Old clause (9) was renumbered (10) by the same section.

2 These words were inserted by section 19 of Madras Act II of 1915.

3 These words were inserted by section 30 of Madras Act IV of 1923.

4 The words " to be printed in the English, Telugu, Tamil and Hindustani languages and " were omitted by *ibid*.

CHAPTER XII

PENALTIES.

Penalty for being interested in contracts with Board.

100. 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.

XLV of 1860.

Provided that nothing in this section shall apply to any person who under [1][clause (*e*) of sub-section (1) of section 10] is to be deemed not to have any share or interest in any contract or employment.

Penalty for obtaining illegal gratification.

101. 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.

XLV of 1860.

Penalty for refusing or neglecting to appear before an auditor of accounts, etc.

102. Any person who, when duly required so to do by any auditor of accounts under section [2][79] 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.

Penalty for depositing filth, etc., on the wharves or foreshore.

103. Any person who without licence 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, earthenware, 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.

Penalty for setting up any erection below high-water mark in the port.

104. (1) Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of the Local Government to his so doing, make, set up or fix, within the limits of the port, any wharf,

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[1] The words and figures "clause (*e*) of section (1) of sub-section (10)" were substituted for the words and figures 'the proviso to sub-section (1) of section 7" by section 32 of Madras Act IV of 1923.

[2] Vide footnote to section 79.

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.

(2) Any such wharf, quay, pier, mooring or other erection within the limits of the port may be removed by the Board and the person who made, set up, or fixed the same, shall be liable to pay all expenses which may be incurred by the Board in the removal thereof.

Penalty for understating quantity or weight of goods, or incorrectly describing them.

105. 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 [1][weight, quantity or description of such goods has been understated or incorrectly given] 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, the owner of such goods shall be liable to pay to the Board such sum not exceeding twice the proper rates on the [2][whole weight or quantity of the consignment of goods so understated or incorrectly described] 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.

Penalty for evading tolls, etc.

106. Any person who removes or attempts to remove, or abets 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 property of Board.

107. 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 servant of the Board

[1] These words were substituted for the words "weight or quantity of such goods has been understated" by section 20 of Madras Act II of 1915.

[2] These words were substituted for the words "weight or quantity of goods so understated" by *ibid.*

or officer in the pilot service of the port unless the damage caused was in no way attributable to the order, act or improper omission of such servant or officer.

108. Except as is otherwise provided, all offences against this Act or against any by-law published under section 96 shall be cognizable by a Presidency Magistrate. Cognizance of offences against Act or by-laws.

CHAPTER XIII.

MISCELLANEOUS.

109. Nothing in this Act shall affect any power vested in the Chief Officer of Customs under any law for the time being in force. Saving of power of Chief Officer of Customs under existing law.

110. 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. Notice and limitation of suits or other proceedings.

111. The Board shall not be liable for any act or default of any officer or servant appointed under this Act, or under [the Indian Ports Act, 1908][1], if the Board be appointed by Government, under the Indian Ports Act, to be Conservator of the Port, or of any person acting under the authority or direction of any such officer unless such act or default is done or made under the direction of the Board ; Saving of liability of Board for acts of officers or servants.

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 *bona fide* done, or ordered to be done by them in pursuance of this Act.

112. The Chairman shall supply to the Local Government such returns and information as may be called for by the Local Government for the purposes of this Act. Submission of returns and information to Local Government.

113. If, at any time, it appears to the Local Government 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 Local Government may give six months' notice, by order published in the Power of Local Government to take possession of works and cancel powers of Board.

1 Vide footnote to section 49.

Fort St. George Gazette, that unless, within that period, the Board take measures, to the satisfaction of the Local Government 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 withdrawn or revoked. If, at the end of such period, the Board has not taken such measures, the Local Government may assume possession and management of the works already constructed, and may, by a like notification, declare the powers of the Board to be withdrawn or revoked ; and upon publication of such notification, all immovable and movable 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, His Majesty ; and the rights of all creditors of the Board under this Act shall continue as against His Majesty to the extent of the property so transferred to and vested in him.

SCHEDULE I.

(*See* section 3.)

ENACTMENT REPEALED.

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

Year.	Number.	Short title or subject.
1886	II	The Madras Harbour Trust Act, 1885.
1886	III	The Madras Harbour Trust (Amendment) Act, 1886.
1892	I	The Madras Harbour Trust (Amendment) Act, 1892.
1898	II	The Madras Harbour Trust (Amendment) Act, 1898.
1900	III	The Madras Harbour Trust (Amendment) Act, 1900.

SCHEDULE II.

(*See* section 3.)

THE PROPERTIES VESTED IN THE BOARD.

Part I.

All that piece or parcel of land with the buildings, structures, and appliances thereon and all that sea space occupied by and enclosed in the north and south groynes of the existing Harbour at Madras together with the moorings therein laid down, which said land and space together form the Madras Harbour and are bounded—

On the north by land bearing resurvey No. 1 of Tondiarpet division and by the sea, the line of such boundary running from a pillar erected on the north-west corner of the said premises, being situate one hundred and ninety-five feet from the north-west corner of the Clive battery and bearing twelve degrees twenty-five minutes east of north from the said corner, for ninety yards to another pillar erected at the root of the said north groyne and thence along the sea edge of the rubble base of the said north groyne to the eastern boundary ;

on the east by the sea, the line of such boundary following the sea edge of the rubble base of the said north groyne from north to south, thence across in a direct line to the sea edge of the rubble base of the said south groyne and so on along such sea edge to the southern boundary ;

on the south by the sea, by the foreshore, and other land belonging to the Secretary of State, by land in the occupation of the South Indian Railway Company (Limited) and by land vested in the Corporation of Madras, the line of such southern boundary following the sea edge of the rubble base of the said south groyne from the eastern boundary up to the root of such groyne and thence a curved line running on a radius of about one thousand feet up to an iron post sunk below the level of the street at the junction of the southern and the western boundaries being situate eighty-seven feet from the north-eastern corner of the building now occupied by the Chartered Mercantile Bank and one hundred and thirteen feet nine inches from the south-east corner of that building ; and

on the west by land vested in the Corporation of Madras, the line of such boundary running southwards from the north-west pillar referred to in the northern boundary to the north-west angle of the Clive battery, thence along the western side of such battery and for ten feet along the south side of same, thence for a distance of one hundred and fifty-three feet to a pillar marking the joint Municipal and Harbour boundary, thence southwards as far as the iron post referred to in the southern boundary along a line coincident with the Municipal boundary of the First Line Beach Road.

Excepting always from the said lands and premises the lands and buildings vested in the said Secretary of State included within the said boundaries and known respectively as the Clive battery, comprising resurvey numbers 3823, 3824 and 3825, the office and premises of the Deputy Commissioner of Police and the Bonded Warehouse.

Part II.

All that piece or parcel of land situate at Rayapuram in the City of Madras together with the buildings and erections thereon and known as Carlton House bounded—

On the north side thereof by north side Mada Church Square Road and by a continuation of the revetment constructed by the Harbour Trust Board ;

on the east by the sea edge of the said revetment ;

on the west by east side Mada Church Road ; and

on the south by portion of the said revetment, the premises belonging to Messrs. Arbuthnot & Co., and Tandavamurti Chetti Street.

Part III.

All that piece or parcel of land situate in Rayapuram aforesaid together with the buildings and erections thereon and bounded—

On the north by Kalmandapam Road and a portion of the said revetment ;

on the east by the sea edge of the said revetment ;

on the west by east side Mada Church Road and resurvey No. 348 ; and

on the south by a portion of the said revetment by Thiruvengada Naick lane and by resurvey No. 348.

Part IV.

All that piece or parcel of land situate in Rayapuram aforesaid together with the buildings and erections thereon and bounded—

On the north by a pillar erected on the eastern boundary of Ghaus Mohideen Pettah Road placed at one thousand one hundred and forty-seven yards north of the junction of such road with Kalmandapam Road and by a line running due east and west through such pillar to the sea edge of the said revetment ;

on the east by the sea edge of the said revetment to a pillar erected at the western corner of Cassimode bay, thence across the bay by a line running due east and west to the sea edge of the revetment and thence along such sea edge to the southern boundary ;

on the west by Ghaus Mohideen Pettah Road ; and

on the south by the Kalmandapam Road and the line thereof produced to meet the eastern boundary,

Excepting always the continuation of Flagstaff street passing through the said land and bearing resurvey No. 3310.

SCHEDULE III.

[*Repealed by section* 31 *of Madras Act IV of* 1923.]

MADRAS ACT No. III OF 1905.[1]

[THE MADRAS LAND ENCROACHMENT ACT, 1905.]

[19*th April*, 1905 ; 22*nd May*, 1905.]

An Act to provide measures for checking unauthorised occupation of lands which are the property of Government.

WHEREAS it has been the practice to check the unauthorised occupation of lands which are the property of Government by the imposition of penal or prohibitory assessment or charge,

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, Part IV, dated 23rd December 1904, p. 595 ; for Report of the Select Committee, *see ibid*, dated 27th February 1905, p. 45 ; for Proceedings in Council, *see ibid.* dated 28th February 1905, p. 75, and *ibid*, dated 18th April 1905, p. 206.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 6th June, 1905.

and whereas doubts have arisen as to how far such practice is authorised by law and it is expedient to make statutory provision for checking such occupation ; It is hereby enacted as follows :—

Short title and extent.

1. This Act may be cited as " The Madras Land Encroachment Act, 1905." It extends to the whole of the Presidency of Madras.

Right of property in public roads, etc., waters and lands.

2. (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark, and of rivers, streams, nalas, lakes and tanks, and all canals and water-courses, and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property—

(*a*) of any zamindar, poligar, mittadar, jagirdar, shrotriemdar or inamdar or any person claiming through or holding under any of them, or

(*b*) of any person paying shist, kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or

(*c*) of any person holding under ryotwari tenure, including that of a janmi in Malabar, or of a wargdar in South Canara, or in any way subject to the payment of land-revenue direct to Government, or

(*d*) of any other registered holder of land in propriotary right, or

(*e*) of any other person holding land under grant from Government otherwise than by way of license,

and, as to lands, save also in so far as they are temple site or owned as house-site or backyard,

are and are hereby declared to be the property of Government except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other landowners, and to all customary rights legally subsisting.

(2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be the property of Government.

Explanation.—In this section " high water mark " means the highest point reached by ordinary spring-tides at any season of the year.

Levy of assessment on lands unauthorisedly occupied.

3. Any person who shall unauthorisedly occupy any land which is the property of Government shall be liable to pay by way of assessment—

(i) if the land so occupied forms an assessed survey number or part thereof, the full assessment of such

number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector [1][or subject to his control, the Tahsildar or Deputy Tahsildar] may impose the full assessment of such number or any lesser sum irrespective of the area occupied ;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village as the case may be, or when no such rates exist in such manner as may be prescribed in rules or orders under section 8 :

Provided that payment of assessment under this section shall not confer any right of occupancy.

Explanation.—For the purposes of this section occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.

Conclusiveness of Collector's decision as to amount of assessment.

4. The [2][*] decision as to the rate or amount of assessment payable under section 3 shall be recorded in writing and shall not be questioned in any civil court.

Liability of person unauthorisedly occupying land to penalty after notice.

5. Any person liable to pay assessment under section 3 shall also be liable at the discretion of the Collector, [3][or subject to his control, the Tahsildar or Deputy Tahsildar] to pay in addition by way of penalty—

(i) if the land be assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under section 3 exceeds five rupees, a sum not exceeding ten times such assessment, provided that no penalty shall ordinarily be imposed in respect of the unauthorised occupation of such land for any period not exceeding one year ;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Liability of person unauthorisedly occupying land to summary eviction, forfeiture of crops, etc.

6. (1) Any person unauthorisedly occupying any land for which he is liable to pay assessment under section 3 may be summarily evicted by the Collector, and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or any thing deposited thereon shall also, if not removed by him after such

1 These words in square brackets were inserted by Mad. Act VIII of 1914, s. 2.

2 The word "Collector's" was omitted by *ibid.*

3 These words in square brackets were inserted by *ibid.*

written notice as the Collector may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct.

Mode of eviction.

(2) An eviction under this section shall be made in the following manner, namely :—By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring him within such time as the Collector may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar or Deputy Tahsildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period :

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 183, 186, or 188 of the Indian Penal Code in respect of the same facts.

XLV of 1860.

Prior notice to person in occupation.

7. Before taking proceedings under section 5 or section 6 the Collector [1][or Tahsildar, or Deputy Tahsildar, as the case may be] shall cause to be served on the person reputed to be in unauthorised occupation of land being the property of Government a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 5 or section 6.

Such notice shall be served in the manner prescribed in section 25 of the Madras Revenue Recovery Act, 1864, or in such other manner as the Local Government by rules or orders under section 8 may direct.

Mad. Act II of 1864.

Power to make rules.

8. The Local Government may make rules or orders either generally or in any particular instance—

(*a*) regulating the rates of assessment leviable under section 3 ;

(*b*) regulating the imposition of penalties under section 5 ;

1 These words in square brackets were inserted by Mad. Act VIII of 1914, s. 2.

(*c*) declaring that any particular land or class of lands which are the property of Government shall not be open to occupation ;

(*d*) regulating the service of notices under this Act.

Such general rules or orders shall be made only after previous publication.

Recovery of assessment or penalty levied as arrears for land-revenue.

9. The amount of assessment and penalty imposed under this Act on any person unauthorisedly occupying any land shall be deemed to be land-revenue and may be recovered from him as arrears of land-revenue under the provisions of the Madras Revenue Recovery Act, 1864, or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be. Mad. Act II of 1864. Mad Act V I of 1867.

Appeal.

[1][**10.** (1) An appeal shall lie (*a*) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and (*b*) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (*c*) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar, Tahsildar or Collector under this Act, and the Board of Revenue or the Local Government may revise any decision or order passed by any officer under this Act.

(2) Pending the disposal of any appeal or petition for revision under this Act, the Collector, the District Collector, the Board of Revenue or the Local Government, as the case may be, may suspend the execution of the order appealed against or sought to be revised.]

Limitation of appeal.

11. No appeal shall be brought after the expiration of sixty days from the date of the decision or order complained of, provided that in computing the period of sixty days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the priod hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the prescribed period.

Document accompanying petition of appeal.

12. Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Saving of operations of other laws in force.

13. Nothing in this Act contained shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any law for the time being in force :

[1] This section was substituted by Mad. Act VIII of 1914.

Provided that if any penalty has been levied from any person under section 5 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

Saving of suits by persons aggrieved by proceedings under Act.

14. Nothing contained in this Act shall be held to prevent persons deeming themselves aggrieved by any proceedings under this Act except as hereinbefore provided, from applying to the civil courts for redress : Provided that the civil courts shall not take cognizance of any suit instituted by such person for any such cause of action unless such suit shall be instituted within six months from the time at which the cause of action arose.

Explanation.—The cause of action shall be deemed to have arisen—

(*a*) in respect of any assessment or penalty, on the date on which such assessment or penalty was levied ;

(*b*) in respect of eviction or forfeiture, on the date of eviction or forfeiture.

Validation of levy of penal assessment before the passing of Act. Saving of pending suits.

15. Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorizedly occupied any land hereby declared to be the property of Government shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits pending when this Act comes into force in a Court of First Instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a court of competent jurisdiction.

Saving of lands claimed by right of escheat, resumption or reversion.

16. Nothing in this Act shall apply to any lands claimed by right of escheat, resumption or reversion until such lands have been reduced into possession by Government.

SCHEDULE.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 6.

Seal.

To

The Officer in charge of the Civil Jail at

Whereas *A.B.* of has resisted (or obstructed) *C.D.* in removing *E.F.* (or himself, that is, the said *A.B.*) from certain land in the village of in the taluk, and whereas it is necessary in order to prevent the continuance of such obstruction (or resistance) to commit the said *A.B.* to close custody. You are hereby required under the provisions of section 6 of the Madras Land Encroachment Act, 1905, to receive the said *A.B.* into the jail under your charge and there to keep him in safe custody for days

Dated this day of

(Signature of Collector.)

MADRAS ACT No. IV OF 1905.[1]

[THE MADRAS CITY POLICE ACT AMENDMENT ACT, 1905]

[*23rd November* 1905 ; *15th December* 1905.]

An Act to amend the Madras City Police Act, 1888.

Preamble. WHEREAS it is expedient to amend the Madras City Police Act, 1888 ; It is hereby enacted as follows :— Mad. Act III of 1888.

Short title. 1. This Act may be called the Madras City Police Act Amendment Act, 1905.

Amendment of section 71 (iv) of Mad. Act III of 1888. 2. In clause (iv) of section 71 of the Madras City Police Act, 1888, the words "except when there may be sufficient moonlight to render such light unnecessary" are hereby repealed. Mad. Act III of 1888.

MADRAS ACT No. III OF 1907.[2]

[THE MADRAS CITY POLICE (AMENDMENT) ACT. 1907.]

[*2nd May* 1907 ; *20th May* 1907.]

An Act to provide for the control by the Inspector-General of Police of the Administration of the Madras City Police.

Preamble. WHEREAS it is expedient to place the Commissioner of Police, Madras, under the control and direction of the Inspector-General ; It is hereby enacted as follows :—

Title and commencement. 1. This Act may be called the Madras City Police (Amendment) Act, 1907, and it shall come into force on such date[3] as the Governor in Council may, by a notification in the *Fort St. George Gazette*, direct.

Control of the Inspector-General over the Commissioner of Police. 2. Notwithstanding anything contained in the Madras City Police Act, 1888, the Commissioner of Police for the City of Madras shall, in the exercise of his functions under the said Act, be under the control and direction of the Inspector-General of Police for the Presidency of Madras, subject to any rules that may be made under section 3, provided that such control and direction shall not extend to any matter in respect of which the said Commissioner of Police is, under the said Act, expressly made subject to the control and direction of the Local Government. Mad. Act III of 1888.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1905, Pt. IV, p. 489 ; and for Proceedings in Council, *see ibid*, p. 509.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 2nd January, 1906.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1907, Pt. IV, p. 44 ; for the Proceedings in Council, *see ibid*, p. 74.

[3] This Act came into force on 1st Sep. 1907, *see Fort St. George Gazette*, 1907, Pt. I, p. 856.

3. It shall be competent to the Local Government to make rules to limit and regulate the exercise of the powers of control and direction conferred on the Inspector-General of Police by section 2 in respect of the Commissioner of Police for the City of Madras. Power of Local Government to make rules.

THE MADRAS ESTATES LAND ACT, 1908.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1 Short title.
2 Repeal.
3 Definitions.

CHAPTER II.

GENERAL RIGHTS.

4 Landholder's right to collect rent.
5 Rent to be a first charge upon the holding and produce thereof.
6 Occupancy right in ryoti land.
6A Ryot becoming landholder, ijaradar or farmer of rent.
7 Reservation of mining rights.
8 Merger of occupancy right.
9 Right of landholder to eject a ryot.
10 Occupancy right heritable and transferable.
11 Use of land by the ryot.
12 Right of ryot to trees in holding.
13 Right of occupancy ryot to make an improvement.
14 Omitted.
15 Power of Collector to settle questions connected with improvements.
16 Registration of landholders improvement.
17 Application to record evidence as to improvement.
17A Landholders' right to enter on and measure land.
18 Saving as to improvements made in ordinary course of cultivation.
19 Relation of ryots and landholders with their tenants.
20 Collector to decide whether land is communal land or not and the customary rights in such land.
20A Power of District Collector to divert disused communal lands.
20B Power of District Collector to acquire land for communal purposes.
21 Eviction of persons occupying communal lands contrary to rule.
22 Application of provisions of Madras Land Encroachment Act to orders under section 21.
23 Omitted.

CHAPTER III.

General Provisions relating to the rates of rent payable by ryots.

Sections.
24 Restriction on enhancement.
25 Rent payable on admission to possession of ryoti land after commencement of Act.
26 Enhancement of rent originally fixed at a lower rate in consideration of bringing waste land into cultivation or of making improvement upon the holding.
27 Presumption as to amount of rent and conditions of holding.
28 Presumption as to fair rate of rent.
29 Waram rates not liable to enhancement.
30 Enhancement of rent by application.
31 Rules as to enhancement of rent on the ground of a rise in prices.
32 Rules as to enhancement of rent on the ground of landholder's improvement.
33 Rules as to enhancement of rent on the ground of improvement by Government.
34 Rules as to enhancement of rent on the ground of fluvial action.
35 Enhancement of rent to be fair and equitable.
36 Power to order enhancement to be gradual.
37 Limitation of time to bring successive applications for enhancement of rent.
38 Reduction of rent by application.
39 Limitation of time to bring successive applications for reduction of rent.
40 Commutation by suit of rent payable in kind.
41 Prohibition against enhancement or reduction of rent for twenty years after commutation.
42 Alteration of rent in respect of alteration in area.
43 Omitted.
44 Rules for the determination of alteration of rent with area.
45 Omitted.
46 Omitted.
47 Omitted.
48 Omitted.
49 Omitted.

CHAPTER IV.

Pattas and Muchilikas.

50 Ryots to whom the chapter applies.
51 Contents of patta and muchilika.
52 Period for which pattas and muchilikas may be exchanged.
53 Omitted.
54 Patta to be tendered.
55 Suit to obtain patta.
56 Suit to enforce acceptance of patta.
57 Procedure in adjudication of suits to enforce grant of acceptance of patta.
58 Pattas and muchilikas to be signed and registered by the karnam.

CHAPTER V.

PAYMENT AND ARREARS OF RENT.

SECTIONS.
59 Payment of rent in instalments.
60 Arrear of rent.
61 Interest on arrears.
62 Right of ryot to receipt for rent.
63 Contents of valid receipt.
64 Credit of payments on account of instalments.
65 Compensation for withholding receipt.
66 Place of payment.
67 Effect of receipt of person recognized or nominated as landholder for receiving rent.
68 Application to deposit rent.
69 Receipt of deposit by Collector to be a valid acquittance.
70 Notification of receipt of deposit of rent.
71 Payment or refund of deposit.
72 Barring of suits.
73 Rights and liabilities as to possession of crop.
74 Application to Collector for appraisement, division or determination of produce.
75 Procedure on such application.
76 Power of entry.

CHAPTER VI.

RECOVERY OF RENT BY SUIT OR BY DISTRAINT AND SALE OF MOVABLE PROPERTY OR OF THE HOLDING.

77 Modes of recovery of arrears of rent.
77A Conditions for recovery of arrears by a distraint of movable property or sale of holding.
77B Enforceability of partially correct patta.
77C Provision where tendered patta includes claim exceeding that due under previous engagement.
77D Arrears which may be enforced by distraint.
77E Prohibition of distraint where decree for rent has been obtained.
77F Articles exempted from distraint.
78 Distraint how to be effected.
79 Distraint to be proportionate to arrear and list of property to be served on owner and copy sent to sale officer.
80 Distrainer may procure police assistance.
81 Distress to be proportionate to arrears.
82 Time of distress.
83 Right to reap and preserve produce.
84 What places distrainer may force open.
85 Power to force open doors, and to enter zenana in presence of a police officer.
86 Distrained cattle or goods not to be used.
87 Withdrawal of distress on deposit, payment or furnishing of security.
88 Liability of distrainer for loss of, or injury to, distrained property.

SECTIONS.

89 Claim of third person to right or interest in distrained property.
90 Delivery of property fraudulently conveyed to prevent distress or forcibly or clandestinely removed after distraint.
91 Suit against orders under sections 89 and 90.
92 Application for sale.
93 Contents of application.
94 Fee for service of notice.
95 Procedure on receipt of application.
96 When sale may take place.
97 Place of sale.
98 Sale of perishable article.
99 When crop may be sold.
100 Manner of sale.
101 Postponement of sale.
102 Payment of purchase money.
103 Obligation to report irregularity in distraining.
104 Effect of irregularity in distraining.
105 Certificate to be given to purchaser.
106 Disposal of proceeds of sale.
107 Prohibition against bidding for or purchase of property by sale officer or subordinate.
108 Right of tenant or cultivator to deduct from rent amount paid for his landlord.
109 Conflict between distress by landholder and attachment by court.
110 Tender of amount under protest to be deemed valid.
111 Sale of holding.
112 Notice of intention to sell.
113 Intimation of date of service to landholder.
114 Application for sale.
115 Period of limitation for application under section 114.
116 Proclamation of sale and appointment of selling officer.
117 Duty of selling officer.
118 Sale when amount due is not discharged in full.
119 Place of sale.
120 Manner of sale.
120A Right of landholder to bid for holding and set off amounts due to him.
121 Postponement of sale.
122 Stoppage of sale.
123 Payment of purchase-money and notification of sale.
124 Transmission of purchase-money to Collector and grant of certificate of sale.
125 Encumbrances.
126 Extent of holding to be brought to sale.
127 Rules for disposal of sale-proceeds.
128 Right of person having interest in the holding on payment of amount due.
129 Right of tenant or sub-tenant to deduct from rent amount paid for ryot.
130 Omitted.
131 Application to set aside sale on deposit of purchase-money.

SECTIONS.

132 Application of this chapter to execution of decrees for arrears of rent.
133 Collector executing decree may grant defaulter time to pay.
134 Extension of application of provisions of this chapter.

CHAPTER VII.

RECOVERY OF EXCESS PAYMENTS.

135 Prohibition of payments in addition to rent.
136 Recovery of such payment and penalties.

CHAPTER VIII.

IRRIGATION WORKS.

136A Ayacut.
136B Notification of certain works as major irrigation works.
136C Applications to whom to be made.
136D Inquiry on application.
137 Determination of ayacut.
137A Sanction to extend ayacut.
137B Prohibition of unauthorized extension of ayacut.
137C Reclassification of irrigated or garden land as unirrigated.
137D Determination of rate of rent on reclassified lands.
138 Application for repair of irrigation work.
139 Inquiry and order on such application.
140 Liability of dasabandam inamdar.
141 Temporary reduction of rent pending completion of work or repair.
142 Irrigation works serving partly an estate and partly Government land.
143 Irrigation works serving more than one estate.
144 Bar on jurisdiction of civil courts.

CHAPTER IX.

SUBDIVISION AND TRANSFER OF HOLDINGS AND ESTATES.

145 Recognition of transfer of devolution of holding or portion of a holding.
146 Omitted.
147 Proceedings against transferor or co-sharer prior to notice to be valid against transferee or co-sharer.
148 Notice of transfer or partition by landholder and transferee or co-sharer.

CHAPTER X.

RELINQUISHMENT AND EJECTMENT.

149 Relinquishment of holding by ryot.
150 Application to Collector for service of notice.
151 Suit for ejectment.
152 Decree where damage is repairable or pecuniary compensation would be adequate relief.

SECTIONS.

153 Omitted.
154 Omitted.
155 Right of ejected ryot in respect of crops and land prepared for sowing.
156 Payment by ryot for occupation of land under preceding section.
157 Omitted.
158 Eviction of tenant under Collector's warrant.
159 Contents of warrant.
160 Execution of warrant.
161 Determination of tenancy.
162 Saving clause.
163 Rates of rent and damages payable for unauthorized occupation of ryoti land.
163A Ejectment of trespasser.

CHAPTER XI.

SURVEY, RECORD-OF-RIGHTS, AND SETTLEMENT OF RENTS.

164 Power of Local Government to order survey and record-of-rights.
165 Particulars to be recorded.
166 Publication of preliminary record and entertainment of objections thereto.
167 Presumption as to final publication and correctness of record-of-rights.
168 Settlement of rents.
169 Preliminary publication and amendment of settlement record.
170 Final revision of settlement record and incorporation of the same in record-of-right.
171 Appeal to superior revenue authority.
172 Revision by Board of Revenue.
173 Entries in settlement record when open to question by civil suit.
174 Entry of note of decisions under sections 171 and 173 in record-of-rights.
175 Correction of clerical and accidental mistakes.
176 Presumption as to correctness of rents settled under sections 168 to 170.
177 Time from which settlement of rent is to take effect and limitation of period of enhancement.
178 Stay of proceedings during preparation of record-of-rights.
179 Limitation of jurisdiction of Civil Courts in matters other than rent relating to the record-of-rights.
180 Apportionment of expenses.

CHAPTER XII.

LANDHOLDER'S PRIVATE LAND.

181 Conversion of private land into ryoti land.
182 Power to order survey and record of landholder's private land.

SECTIONS.

183 Power to record private land on application of landholder or occupant.
184 Procedure for recording private land.
185 Rules for determining landholder's private land.

CHAPTER XIII.

ACQUISITION BY LANDHOLDER OF LAND FOR BUILDING AND OTHER PURPOSES.

186 Acquisition by landholder of land for building and other purposes.

CHAPTER XIV.

CONTRACT.

187 Restrictions on contract.
188 Omitted.

CHAPTER XV.

JURISDICTION AND PROCEDURE.

189 Suits and applications.
190 Second appeals.
191 Limitation for appeals under sections 189 and 190.
192 Application of Code of Civil Procedure, 1908, to proceedings under Act.
193 Joinder of ryots in applications for commutation, enhancement or reduction of rent.
194 Omitted.
195 Omitted.
196 Omitted.
197 Court to give receipt.
198 Omitted.
199 Omitted.
200 Landholders who may be parties.
201 Transfer of decree or order passed by Revenue Court for payment of money.
202 Omitted.
203 Regard to be paid by courts to entries in record-of-rights.
204 Power of District Collector and Board of Revenue to distribute business and to withdraw and transfer cases.
205 Power to call for and revise proceedings of Collectors.
206 Power to invest any person with powers of Collector.
207 Appointment of Additional District Collector.
208 District Collector and Collectors for scheduled districts.
209 Place of institution of suits or proceedings.

CHAPTER XVI.

LIMITATION.

210 Limitation for suits, etc.
211 Application of the Indian Limitation Act, 1908.

CHAPTER XVII.

SUPPLEMENTAL.

SECTIONS.
212 Penalties for illegal interference with produce, etc.
213 General right of suit for damages.
214 Power of landholder to act through agent.
215 Power of Local Government to make rules.

MADRAS ACT No. I OF 1908.[1]

[THE MADRAS ESTATES LAND ACT, 1908.]

[25*th March* 1908 ; 28*th June* 1908.]

An Act to declare and amend the law relating to the holding of land in estates in the Presidency of Madras.

Preamble. WHEREAS it is expedient to amend and declare the Law relating to the holding of land in estates in the Presidency of Madras ; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title. **1.** This Act may be called the Madras Estates Land Act, 1908 :

Commencement. It shall come into force on the first day of July 1908 :

Local extent. and it shall extend to the whole of the Presidency of Madras except the Presidency Town, the district of Malabar and the portion of the Nilgiri district known as the South-East Wynaad.

Repeal. **2.** Madras Acts VIII of 1865 and II of 1871 and section 7 of Madras Act III of 1890 are hereby repealed.

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

"Agriculture." (1) " Agriculture " with its grammatical variations and cognate expressions shall include horticulture.

"Collector." [2][(1-A) " Collector " means a Revenue Divisional Officer and includes any person appointed by the Local Government, whether by name or in virtue of his office, to exercise any of the functions of a Collector under this Act.].

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1905, Pt. IV, p. 173 ; for Report of Select Committee, *see ibid.* 1906, Pt. IV, p. 3, and for Proceedings in Council, *see ibid*, 1905, Pt. IV, pp. 368, 433, 509 ; *ibid*, 1907, Pt. IV, p. 226 ; *ibid*, 1908, Pt. IV, pp. 2, 41, 69, 97, 133, 163, 197, 229, 261, 293, 323, 353, 383, 413, 443, 487, 513 and 537.

This Act is not in force in the taluks of Nugur, Albaka and Cherla, *vide* s. 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (I of 1909).

2 Clause (1-A) was inserted by section 4 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(2) " Estate " means "Estate."

(*a*) any permanently settled estate or temporarily settled zamindari ;

(*b*) any portion of such permanently settled estate or temporarily settled zamindari which is separately registered in the office of the Collector ;

(*c*) any unsettled palaiyam or jagir ;

[1] [(*d*) any village of which the land revenue without the kudivaram has been granted in inam to a person not owning the kudivaram thereof, provided that the grant has been made, confirmed or recognized by the British Government.]

(*e*) any portion consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*) which is held on a permanent under-tenure.

(3) " Holding " means a parcel or parcels of land held under a single [patta][2] or engagement in a single village'. "Holding."

Provided that if the landholder and ryot so agree in writing any portion of a holding as above defined shall be treated as a separate holding.

(4) " Improvement " means with reference to a ryot's holding any work which materially adds to the value of the holding, which is suitable to the holding and consistent with the character thereof, and which, if not executed on the holding, is either executed directly for its benefit or after execution is made directly beneficial to it, and, subject to the foregoing provisions, includes— "Improvement."

(*a*) the construction of tanks, wells, water channels, and other works for the storage, supply, or distribution of water for agricultural purposes ;

(*b*) the construction of works for drainage of land, or for the protection of land from floods, or from erosion or from other damage by water ;

(*c*) the reclaiming, clearing, enclosing, levelling, or terracing of land and the preparation of land for irrigation ;

(*d*) the erection of buildings on the holding or in its immediate vicinity, elsewhere than on the village-site, required for the convenient or profitable

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[1] Sub-clause (*d*) was substituted for the original sub-clause by section 4 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The word " patta " was substituted for the word " puttah " by section 2 *ibid.*

use or occupation of the holding; and the erection of dwelling houses for the ryot and his family and servants;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and

(*f*) the planting of fruit trees and fruit gardens; but does not include, unless made with the written consent of the landholder, any work which prejudicially affects any other land of the landholder.

"Landholder." (5) "Landholder" means a person owning an estate or part thereof and includes every person entitled to collect the rents of the whole or any portion of the estate by virtue of any transfer from the owner or his predecessor-in-title or of any order of a competent Court or of any provision of law.

Where there is a dispute between two or more persons as to which of them is the landholder for all or any of the purposes of this Act or between two or more joint landholders as to which of them is entitled to proceed and be dealt with as such landholder, the person who shall be deemed to be the landholder for such purposes shall be the person whom the Collector subject to any decree or order of a competent Civil Court may recognize or nominate as such landholder in accordance with rules to be framed by the Local Government in this behalf.

(6) [1][* * * * *]

(7) [1][* * * * *]

"Pay", etc. (8) "Pay," "payable" and "payment" used with reference to rent include "deliver," "deliverable" and "delivery."

"Prescribed." (9) "Prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette.

"Private land." (10) "Private land" means the domain or homefarm land of a landholder by whatever designation known such as kambattam, khas, sir or pannai [2] [and includes—

(*a*) all land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour, with his own or

[1] Clauses (6) and (7) were omitted by section 4 (3) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The portion within square brackets was added by *ibid.*

hired stock, for a continuous period of twelve years immediately before the commencement of this Act ; and

(*b*) all land in an estate within the meaning of sub-clause (*d*) of clause (2) the entire kudivaram interest in which has been acquired by the landholder before the first day of November, 1933, provided that where such interest is acquired by surrender or abandonment of the land by the ryot or by purchase at a sale for arrears of rent, the land is proved to have been cultivated as priviate land by the landholder himself, by his own servants or by hired labour, with his own or hired stock, for a continuous period of twelve years since the acquisition of the land.] [1]

[2][(11) " Rent " means whatever is lawfully payable in money or in kind or in both to a landholder by a ryot for the use or occupation of land for the purpose of agriculture and includes whatever is lawfully payable on account of water supplied by the landholder or taken without his permission for cultivation of land where the charge for water has not been consolidated with the charge for the use or occupation of the land. "Rent."

For the purposes of sections 5, 27, 28, 59 to 72, 77 to 131, 135, 136, 145 to 148, 165, 210 and 211 and the Schedule, rent includes also

(*a*) any local tax, cess, fee or sum lawfully payable to a landholder by a ryot as such in addition to the rent due according to law or usage having the force of law and also money recoverable under any enactment for the time being in force as if it was rent ; and

(*b*) sums lawfully payable to a landholder by a ryot as such on account of pasturage fees and fishery rents.]

(12) " Revenue field " means a survey field, or any field or parcel of land, on which a definite rent is payable, or which in case of dispute may be declared by a Collector to be a revenue field. " Revenue field."

(13) [3][* * * * * * *.]

(14) " Revenue year " means the year ending on the 30th June. " Revenue year."

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[1] The portion within square brackets was added by section 4 (4) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Clause (11) was substituted for the original clause by section 4 (5) *ibid.*

[3] Clause (13) was omitted by section 3 *ibid.*

"Ryot." (15) "Ryot" means a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it.

[1][Explanation.—A person who has occupied ryoti land for a continuous period twelve years shall be deemed to be a ryot for all the purposes of this Act.]

"Ryoti land." (16) "Ryoti land" means cultivable land in an estate other than private land but does not include—

[2][(*a*) beds and bunds of tanks and of supply, drainage surplus or irrigation channels;]

(*b*) threshing-floor, cattle-stands, village-sites, and other lands situated in any estate which are set a part for the common use of the villagers.

(*c*) lands granted on service tenure either free of rent or on favourable rates of rent if granted before the passing of this Act or free of rent if granted after that date, so long as the service tenure subsists.

"Signed." (17) "Signed" includes stamped with the name of the person purporting to sign.

"Tahsildar." (18) "Tahsildar" includes a Deputy Tahsildar.

"Village." (19) "Village" means any local area situated in or constituting an estate which is designated as a village in the revenue accounts and for which the revenue accounts are separately maintained by one or more karnams or which is now recognized by the Local Government or may hereafter be declared by the Local Government for the purposes of this Act to be a village, and includes any hamlet or hamlets which may be attached thereto.

CHAPTER II.—GENERAL RIGHTS.

Landholder's right to collect rent. **4.** Subject to the provisions of this Act, a landholder is entitled to collect rent in respect of all ryoti land in the occupation of a ryot.

Rent to be a first charge upon the holding and produce thereof. **5.** (1) The rent of ryoti land together with any interest which may be due in respect thereof shall be a first charge upon the holding and upon the produce of the holding or any part thereof, provided that, if gathered, the produce is in the custody or possession of the ryot or deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within the homestead.

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1 The explanation under clause (15) was added by section 4 (6) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 Sub-clause (*a*) of clause (16) was substituted for the original sub-clause by section 4 (7) *ibid.*

(2) Nothing in this section shall be deemed to affect any right of the Government.

[1] [6. (1) Subject to the provisions of this Act, every ryot now in possession or who shall hereafter be admitted by a landholder to possession of ryoti land situated in the estate of such landholder shall have a permanent right of occupancy in his holding. Occupancy right in ryoti land.

Explanation (1).—For the purposes of this sub-section, the expression 'every ryot now in possession' shall include every person who, having held land as a ryot, continues in possession of such land at the commencement of this Act.

Explanation (2).—Every landholder who receives or recovers any payment under section 163 from any person unauthorizedly occupying ryoti land shall be deemed to have thereby admitted such person into possession unless within two years from the date of receipt or recovery of payment or the first of such payments, if more than one, he shall file a suit in a Civil Court for ejectment against such person.

(2) Admission to waste land under a contract for the pasturage of cattle and admission to land reserved *bona fide* by a landholder for raising a garden or tope or for forest under a contract for the temporary cultivation thereof with agricultural crops shall not by itself confer upon the person so admitted a permanent right of occupancy; nor shall such land, by reason only of such letting or temporary cultivation, become ryoti land.

(3) A landholder who has acquired lands under section 186 may, for a period not exceeding three years in the aggregate, with the previous permission in writing of the Collector, temporarily let such lands for agricultural purposes but such letting shall not confer on the tenant any permanent right of occupancy.

(4) When a landholder has reclaimed waste land by his own servants or hired labour, he may, by contract in writing, prevent any person from acquiring a permanent right of occupancy in respect of the said land during a period of thirty years from the date of the first cultivation after reclamation.

(5) A person holding land as an ijaradar or farmer of the rent shall not, while so holding, acquire, otherwise than by inheritance or devise, a right of occupancy in any land comprised in the ijara or farm.

(6) Nothwithstanding anything contained in this Act, the relations between the landholder and the person let into possession under sub-sections (2), (3) or (4) shall during the period and for the purpose referred to therein be regulated by the contract between the parties.]

[1] Section 6 was substituted for the original section by section 5 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Ryot becoming landholder, ijaradar or farmer of rent.

[1] [**6 A.** A person having a right of occupancy in land does not lose it by subsequently becoming interested in the land as landholder or by subsequently holding the land as an ijaradar or farmer of rent.]

Reservation of mining rights.

7. Nothing in this Act shall affect any right of a landholder to make a reservation of mining rights on admitting any person to possession of ryoti land.

Merger of occupancy right.

[2] [**8.** (1) Whenever before or after the commencement of this Act the occupancy right in any ryoti land vests in the landholder, he shall have no right to hold the land as a ryot but shall hold it as a landholder, but nothing in this sub-section shall prejudicially affect the rights of any third person.

Provided that nothing in this sub-section shall be deemed to apply to land in an inam village which becomes private land within the meaning of sub-clause (*b*) of clause (10) of section 3.

(2) Whenever before or after the commencement of this Act the occupancy right in any ryoti land vests in any co-landholder, he shall be entitled to hold the land subject to the payment to his co-landholders of the shares of the rent which may from time to time be payable to them and if such co-landholder lets the land to a third person, such third person shall be deemed to be a ryot in respect of the land.

(3) The merger, if any, of the occupancy right under sub-sections (1) and (2) shall not except in the case referred to in the proviso to sub-section (1) have the effect of converting ryoti land into private land.

(4) Where after the passing of this Act, the interest of the ryot in the holding passes to the landholder by inheritance, the landholder shall notwithstanding anything contained in this Act have the right, for a period of twelve years from the date of succession, of admitting any person to the possession of such land on such terms as may be agreed upon between them.]

Right of landholder to eject a ryot.

9. No landholder shall as such be entitled to eject a ryot from his holding or any part thereof otherwise than in accordance with the provisions of this Act.

Occupancy right heritable and transferable.

10. (1) All rights of occupancy shall be heritable, and shall be transferable by sale, gift or otherwise.

(2) If a ryot dies intestate [* * * * * *][3] without leaving any heirs except the Crown, his right of occupancy shall be extinguished but the land in respect of which he had such right of occupancy shall not cease to be ryoti land.

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[1] Section 6-A was inserted by section 6 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 8 was substituted for the original section by section 7 *ibid.*

[3] The words "in respect of a right of occupancy and" were omitted by section 8 *ibid.*

11. A ryot may use the land in his holding in any manner which does not materially impair the value of the land or render it unfit for agricultural purposes. Use of land by the ryot.

[1][**12.** (1) Subject to any rights which by custom or by contract in writing executed by the ryot before the passing of this Act are reserved to the landholder, every ryot shall have the right to use, enjoy, cut down, carry away or otherwise dispose of all trees now in his holding and in the case of trees which after the passing of this Act may be planted by the ryot or which may naturally grow upon the holding, he shall have the right to use, enjoy, cut down, carry away or otherwise dispose of them notwithstanding any contract or custom to the contrary. Right of ryot to trees in holding.

(2) It shall be open to a ryot on payment to the landholder of such compensation as may be fixed by the Collector on an application made to him in that behalf, to acquire the rights reserved to a landholder by custom or by contract in writing executed as aforesaid, in any trees which were in the holding of the ryot before the passing of this Act :

Provided that nothing contained in this sub-section shall be deemed to affect the rights of any third person or to entitle a ryot to acquire compulsorily the landholder's rights to any trees included in a tree-patta issued by him to a third person.]

13. (1) [2][Neither a ryot nor the landholder] shall as such be entitled to prevent the other from making an improvement in respect of the holding except on the ground that he is willing to make it himself. Right of occupancy ryot to make an improvements.

(2) If both the ryot and the landholder wish to make the same improvement, the ryot shall have the prior right to make it, unless it affects the holding of another ryot under the same landholder, in which case the landholder shall have the prior right.

[3] [(3) Notwithstanding any usage or contract to the contrary, the ryot shall not, by reason of his making an improvement at his expense, become liable to pay a higher rate of rent on account of any increase of production or of any change in the nature of the crop raised, as a consequence of such improvement.]

14. [4][* * * * * *].

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1 Section 12 was substituted for the original section by section 9 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The words within square brackets were substituted for the words " where a ryot has a permanent right of occupancy in his holding neither the ryot nor the landholder " by section 10 (i) *ibid.*

3 Sub-section (3) of section 13 was substituted for the original sub-section by section 4 (ii) *ibid.*

4 Section 14 was omitted by section 11 *ibid.*

Power of Collector to settle questions connected with improvements.

15. If a question arises between a ryot and the landholder,

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is or will be an improvement,

the Collector may, on the application of either party decide the question.

Registration of landholders improvement.

16. (1) A landholder may apply to [1][the Collector] to register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a ryot in making.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local enquiry or otherwise, as the Local Government may by rule direct.

(3) The [1][Collector] may reject it if it has not been made within twelve months from the date of the completion of the work.

Application to record evidence as to improvement.

17. (1) If any landholder or ryot of a holding desires that evidence relating to any improvement made after the passing of this Act in respect of a holding shall be recorded, he may apply to the Collector, who shall thereupon, at a time and place of which notice shall be given to both parties, record the evidence, unless for reasons to be recorded he considers that there are no grounds for the application.

(2) When any matter has been recorded under this section, the record shall be admissible in evidence in every subsequent proceeding between the landholder and ryot or any persons claiming under them.

Landholder's right to enter on and measure land.

[2][**17 A.** Every landholder by himself or his duly authorized agent may at all reasonable times enter upon any land in his estate for any of the purposes of this Act and may also measure any land for any such purpose.]

Saving as to improvements made in ordinary course of cultivation.

18. Notwithstanding anything contained in sections 13, [3][* *] and 15, the ryot shall be entitled to make temporary wells, water channels, embankments, levellings, enclosures or other works or petty alterations or repairs to such works as are made in the ordinary course of cultivation and the provisions of section 17 shall not apply to such works or repairs.

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[1] The words "the Collector" in section 16 (1) and the word "Collector" in section 16 (3) were substituted respectively for the words "such Revenue Officer as the Local Government may appoint" and "officer receiving the application" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 17 A was inserted by section 12 *ibid.*

[3] The figures "14" were omitted by section 13 *ibid.*

19. Except as otherwise specially provided in this Act, the relations between a ryot and his tenants, or between a landholder and a tenant of his private land, and the rights of any other owners of land, are not regulated by the provisions of this Act. Relations of ryots and landholders with their tenants.

[1] [**20.** (1) The Collector may, on the application of the landholder or other person interested, decide any question as to whether any land is or is not of the description mentioned in sub-clauses (*a*), (*b*) or (*c*) of clause (16) of section 3, or as to the customary rights in the user of any land which is of any such description, as existing at the commencement of this Act. Collector to decide whether land is communal land or not and the customary rights in such land.

(2) Any person aggrieved by such decision may within a period of one year from the date thereof institute a suit in the Civil Court to establish the right claimed by him in respect of such land but subject to the result of such suit, if any, the Collector's decision shall be final.]

[1] [**20 A.** (1) Subject to such rules as the Local Government may prescribe in this behalf, the District Collector may on the application of the landholder, a ryot or any other person interested— Power of District Collector to divert disused communal lands.

(*a*) declare that any land or any portion of any land which is set apart for any of the purposes referred to in sub-clauses (*a*) and (*b*) of clause (16) of section 3 is no longer required for its original purpose ; and

(*b*) by order in writing direct—

(i) that any such land or portion in respect of which such declaration is made be used for any other specified communal purpose ; or

(ii) if such land or portion is not required for any communal purpose, that it be converted into Government ryotwari land or landholder's ryoti land according as the reversionary rights in such land vest under the terms, express or implied, of the sanad, title-deed or other grant, in the Government or in the landholder:

Provided that before making any such declaration and order, the District Collector shall have due regard to any other customary rights of the landholder or the ryots in the user of such land or portion and shall satisfy himself that the exercise of such rights would otherwise be provided for adequately if the declaration and order are put into effect :

Provided further that in the case of any land of the description referred to in sub-clause (*a*) of clause (16) of section 3 the reversionary rights in which

[1] Sections 20, 20 A and 20 B were substituted for the original section 20 by section 14 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

vest in the landholder under the terms, express or implied, of the sanad, title-deed or other grant, any order under sub-clause (i) of clause (*b*) shall be made only with the consent of the landholder.

(2) Without the written order of the District Collector under clause (*b*) of sub-section (1), no land which is set apart for any of the purposes referred to in sub-clauses (*a*) and (*b*) of clause (16) of section 3 shall be assigned or used for any other purpose. Nothing contained in this sub-section shall affect or take away or be deemed to affect or take away the customary rights of the landholder or the ryots in the user of any such land.]

Power of District Collector to acquire land for communal purposes.

[1] [**20 B.** (1) When the District Collector is satisfied that no land is set apart for any of the purposes mentioned in sub-clause (*b*) of clause (16) of section 3, or that any land so set apart or used is inadequate for the purpose, he may, after giving notice to the landholder and the other persons, if any, affected and after making such inquiry as he thinks fit, determine the land or additional land needed for the purpose, and apply to the Local Government for the acquisition of such land under the Land Acquisition Act, 1894. On such application, the Local Government may pass an order directing the District Collector to take order for the acquisition of such land under the said Act. Thereupon the provisions of that Act shall apply as if the Local Government had directed the District Collector to take order for the acquisition of such land under section 7 of the said Act and the land shall, after such acquisition, be set apart for the purpose for which it is acquired. I of 1894.

The cost of such acquisition including all charges incidental thereto, shall be borne by the Local Government, any local authority or authorities having jurisdiction over the area in which the land is situated, the landholder and the ryots or other persons benefited thereby in such proportions as the District Collector may fix. If a local authority, landholder, ryot or other person makes default in paying its or his share, if any, of such cost, the District Collector may recover such share—

(i) in the case of a local authority, in such manner as may be prescribed ; and

(ii) in the case of a landholder, ryot or other person, in the same manner as an arrear of land revenue.

(2) Subject to such rules as the Local Government may prescribe in this behalf, the share, if any, of such cost payable by a ryot under this section together with interest thereon at 6 per cent per annum may, at the discretion of the District Collector, take the form of annual payments, the amount of such payments being fixed with due regard to the prevailing rents.]

[1] Sections 20, 20 A and 20 B were substituted for the original section 20 by section 14 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Eviction of persons occupying communal lands contrary to rule.

21. Any person occupying [1] [any of the lands mentioned in sub-clauses (*a*) and (*b*) of clause (16) of section 3] for any purpose other than that for which the land is so set apart or contrary to the rules framed by the Local Government may at any time within thirty years from the commencement of such occupation be summarily evicted by the Collector in the manner provided by the Madras Land Encroachment Act, 1905, and any crop, product, construction or thing raised, erected or deposited on or upon the lands shall be applied to such communal purposes as the District Collector may adjudge.

Application of provisions of Madras Land Encroachment Act to orders under section 21.

Madras Act III of 1905.

22. The provisions of sections 10 to 14 of the Madras Land Encroachment Act, 1905, shall apply, as far as may be, to [orders under section 21][2] of this Act.

23. [3] [* * * * * *].

CHAPTER III.

General provisions relating to the rates of rent payable by ryots.

Restriction on enhancement.

24. The rent of a ryot shall not be enhanced except as provided by this Act.

Rent payable on admission to possession of ryoti land after commencement of Act.

25. [A ryot][4] admitted by the landholder after the commencement of this Act to possession of ryoti land [* * * *][5] [4][shall not, unless otherwise provided in this Act, be bound to pay rent at a rate exceeding] the rate prevailing for similar lands with similar advantages in the neighbourhood, or, in case such rate cannot be ascertained, [4][exceeding such rate] as the Collector may on application decide to be fair and equitable.

Saving as to receipt of premium.

Nothing in this section precludes the landholder from receiving any premium when the ryot is admitted into possession ; but a ryot so admitted shall under no circumstances become liable to make any payment to the landholder after his admission by way of premium or other consideration for such admission ; nor shall any holding of the ryot be subjected to any charge in respect of any such premium or consideration or part thereof.

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[1] The words, figures and letters within square brackets were substituted for the words and figures "any of the lands mentioned in section 20" by section 15 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words and figures within square brackets were substituted for the words and figures "orders under sections 20 and 21" by section 16 *ibid.*

[3] Section 23 was omitted by section 17 *ibid.*

[4] The words "A ryot" were substituted for the words "Every ryot," the words "shall not, unless otherwise provided in this Act be bound to pay rent at a rate exceeding" were substituted for the words "shall be bound to pay rent at a rate not exceeding" and the words "exceeding such rate" were substituted for the words "at such rate" by section 18 *ibid.*

[5] The words "other than old waste" were omitted by *ibid.*

Enhancement of rent originally fixed at a lower rate in consideration of bringing waste land into cultivation or of making improvement upon the holding.

26. (1) Where for the purpose of clearing and bringing waste land in the estate into cultivation or for the purpose of making any permanent improvement or for planting trees on the holding or where under a contract made prior to the commencement of this Act for any premium, loan or other valuable consideration, a ryot has accepted a [patta][1] from or has entered into an engagement with his landholder at a rate of rent lower than the lawful rate previously payable upon the land or than the rate lawfully payable upon land of similar description and with similar advantages in the neighbourhood, such rent shall not be liable to enhancement during the period for which such lower rate is payable by contract or custom, so long as the ryot shall substantially fulfil the terms upon which and the purposes for which such lower rate was allowed.

(2) After the expiry of the period for which such lower rate of rent is payable or if the terms upon which and the purposes for which such lower rate was allowed have not been substantially fulfilled, the landholder shall be entitled to the full rate.

(3) Except as provided by sub-section (1) no rate of rent at which land may have been granted by a landholder shall be binding upon the person entitled to the rent after the lifetime of the landholder if such rate is lower than the lawful rate payable by the ryot before the date of the grant upon the land or upon land of similar description and with similar advantages in the neighbourhood.

Presumption as to amount of rent and conditions of holding.

27. If a question arises as to the amount of rent payable by a ryot or the conditions under which he holds in any revenue year, he shall be presumed, until the contrary is shown, to hold at the same rate and under the same conditions as in the last preceding revenue year.

Presumption as to fair rate of rent.

28. In all proceedings under this Act the rent or rate of rent for the time being lawfully payable by a ryot shall be presumed to be fair and equitable until the contrary is proved.

Waram rates not liable to enhancement.

29. Where for any land in his holding [a ryot][2] pays rent according to the "Waram" (that is, the established rate of the village for dividing the crop between the landholder and the ryot) with or without an addition in money, or otherwise in kind or on the estimated value of a portion of the crop, or at rates varying with the crop or partly in one of these ways and partly in another or others, such rent shall not be liable to enhancement.

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[1] The word "patta" was substituted for the word "puttah" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "a ryot" were substituted for the words "an occupancy ryot" by section 19 *ibid.*

Enhancement of rent by application.

30. Where for any land in his holding a ryot pays a money rent the landholder may [apply to the Collector] [1] to enhance the rent on one or more of the following grounds and no others—

(i) that during the currency of the existing rent there has been a rise in the average local prices of staple food-crops in the taluk or zamindari division :

(*a*) Provided that if the rent be permanently payable at a fixed rate or rates it shall not be liable to be enhanced under this clause on the ground of a rise in prices.

(*b*) Provided also that no enhancement under this clause shall raise the rent by more than two annas in the rupee of the rent previously payable for the land.

(ii) that during the currency of the existing rent the productive powers of the land held by the ryot have been increased by an improvement effected by, or at the expense of, the landholder.

(iii) that a work of irrigation or other improvement has been executed at the expense of Government, and the landholder has been lawfully required to pay in respect of the holding an additional revenue or rate to Government in consequence thereof :

(iv) that the productive powers of the land held by the ryot have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable where it was not previously practicable.

Rules as to enhancement of rent on the ground of a rise in prices

31. Where an enhancement is claimed under section 30, clause (i)—

(*a*) the Collector shall compare the average prices during the ten years immediately preceding the [application] [2] with the average prices during the ten years ending twenty years immediately before the [application][2] ;

(*b*) if in the opinion of the Collector it is not practicable to take the decennial periods mentioned in clause (*a*), the Collector may, in his discretion, substitute any shorter periods therefor ;

(*c*) the average prices by which the Collector shall be guided shall be those published under the authority of the Local Government and the Collector shall

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[1] The words "apply to the Collector" were substituted for the words "institute a suit before the Collector" by section 20 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The word "application" was substituted for the words "institutions of the suit" by section 21, *ibid.*

presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct unless and until it is proved that they are incorrect ;

(*d*) the decennial periods taken for the comparison of average prices shall be periods of ten years excluding all years which the Local Government may notify to be, or to have been, famine years in respect of any local area ;

(*e*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous ten years taken for purposes of comparison : Provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-half of their excess over the average prices during the earlier period.

Rules as to enhancement of rent on the ground of landholder's improvement.

32. (1) Where an enhancement is claimed under section 30, clause (ii)—

(*a*) the Collector shall not grant an enhancement unless the improvement has been registered in accordance with this Act or has been executed within fifteen years preceding the commencement of this Act ;

(*b*) in determining the amount of enhancement the Collector shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement ;

[1][(ii) the cost of making the improvement and the proportion in which such cost was borne by the landholder and by the ryot ;]

[2][(iii) the probable annual cost of maintenance of the improvement—

(*a*) to the landholder ; and

(*b*) to the ryot ;]

[3][(iv)] the cost of the preparation and cultivation required for utilizing the improvement ; and

[3][(v)] the existing rent and the ability of the land to bear a higher rent.

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[1] Sub-clause (ii) was substituted for the original sub-clause by section 22 (i) (*a*) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-clause (iii) was inserted by section 22 (i) (*b*) *ibid.*

[3] The original sub-clauses (iii) and (iv)-were renumbered as sub-clauses (iv) and (v) by *ibid.*

[1] [(2) Before executing any improvement, the landholder may, with the previous sanction of the Collector, enter into a contract with the ryot for the payment of an additional rent in consideration of such improvement. On the improvement being effected, the landholder shall apply to the Collector for registration of the same, and the Collector after satisfying himself that the sanctioned improvement has been executed, shall register the same. On or after such registration and on the application of the landholder to enforce such contract, the Collector may pass an order granting such enhancement, not exceeding the additional rent mentioned in the contract, as is found by him to be reasonable with due regard to the considerations specified in clause (*b*) of sub-section (1).]

[2] [(3)] An enhancement [ordered][3] under this section shall, on the application of the ryot or his successor in interest, be subject to revision by the Collector in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement of rent on the ground of improvement by Government.

33. Where an enhancement is claimed under section 30, clause (iii), the rent may be enhanced by the sum or proportionate part of the sum which the landholder has lawfully to pay to Government on account of the improvement made by them.

Rules as to enhancement of rent on the ground of fluvial action.

34. Where an enhancement is claimed under section 30, clause (iv)—

(*a*) the Collector shall not take into account any increase which is merely temporary or casual;

(*b*) the Collector may enhance the rent to such an amount as he may deem fair and equitable, but not so as to give the landholder more than one-half of the value of the net increase in the produce of the land.

Enhancement of rent to be fair and equitable.

35. Notwithstanding anything contained in sections 31 to 34, the Collector shall not in any case [order] [4] any enhancement which is under the circumstances of the case unfair or inequitable, or which would operate so as to raise the rent beyond the value of the established waram of the village in which the holding is situated, commuted in accordance with the provisions of section 40.

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1 Sub-section (2) was inserted by section 22 (ii) (*a*) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The original sub-section (2) of section 32 was re-numbered as sub-section (3) by *ibid.*

3 The word "ordered" was substituted for the word "decreed" by section 22 (ii) (*b*) *ibid.*

4 The word "order" was substituted for the word "decree" by section 23 *ibid.*

Power to order enhancement to be gradual.

36. If the Collector [ordering][1] enhancement under clauses (i), (ii) and (iv) of section 30 considers that the immediate enforcement of [the order][1] to its full extent will be attended with hardship to the ryot, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years, not exceeding five, until the limit of the enhancement [ordered][1] has been reached—

Limitation of time to bring successive applications for enhancement of rent.

[2] [**37.** An application for enhancement of rent on the ground of a rise in prices shall not be entertained if, within the twenty years next preceding the application, the rent has been enhanced or reduced on the ground of a rise or fall in prices or commuted or a suit or an application for enhancement or reduction of rent on the ground of a rise or fall in prices has been dismissed on the merits :

Provided that nothing in this section shall, in respect of pending suits, affect the provisions of rule 1 of Order XXIII of the Code of Civil Procedure, 1908.] V of 1908.

Reduction of Rent.

Reduction of rent by application.

38. (1) Where for any land in his holding [a ryot][3] pays a money rent, he may [apply to][3] the Collector for the reduction of his rent on one or more of the following grounds and on no others—

(*a*) that the soil of the holding has, without the fault of the ryot, become permanently deteriorated by a deposit of sand or by other specific cause, sudden or gradual; or

(*b*) that, in the case of irrigated land, there has been a permanent failure of supply from the irrigation work on which it is dependent; or

(*c*) that during the currency of the existing rent there has been a fall not due to a temporary cause in the average local prices of staple food-crops in the taluk or zamindari division.

(2)[4] [On such an application being made], the Collector may direct such reduction of the rent as he thinks fair and equitable and, in settling the amount of reduction under clause (*c*) of sub-section (1), shall have regard to the considertions specified in clauses (*a*), (*b*), (*c*), and (*d*) of section 31.

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[1] The words "ordering", "the order" and "ordered" were substituted respectively for the words "passing a decree for", "the decree" and "decreed" by section 24 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII 1934).

[2] Section 37 was substituted for the original section by section 25 *ibid.*

[3] The words "a ryot" were substituted for the words "an occupancy ryot" and the words "apply to" were substituted for the words "institute a suit before" by section 26 (i), *ibid.*

[4] The words "On such an application being made" were substituted for the words "In any suit instituted under this section" by section 26 *ibid.*

[1] [**39.** When in a suit or on an application under clause (*c*) of sub-section (1) of section 38, a decree or order has been passed reducing the rent or dismissing the suit or application on its merits, no fresh application shall be entertained under the same clause if made within twenty years from the date of such decree or order : Limitation of time to bring successive applications for reduction of rent.

Provided that nothing in this section shall in respect of pending suits affect the provisions of rule 1 of Order XXIII of the Code of Civil Procedure, 1908.] V of 1908.

Commutation of Rent.

40. [2] [(1) Where for any land in his holding a ryot pays rent in kind or on the estimated value of a portion of the crop, or at rates varying with the crop, whether in cash or in kind, or partly in one of these ways and partly in another, or partly in one or more of these ways and partly in cash, either the ryot or the landholder may apply to the Collector to have the rent on the holding commuted to a definite money rent.] Commutation by suit of rent payable in kind.

[2] [(2) On such application, the Collector shall pass an order declaring the sum to be paid as money rent in lieu of rent in kind or otherwise. The commutation shall take effect from the beginning of the revenue year next after the date of such order.]

(3) In making the determination the Collector shall have due regard to each of the following considerations :—

(*a*) the average value of the rent actually accrued due to the landholder [3] [during the ten years preceding the date of application] other than the years which the Local Government may notify to be or to have been famine years in respect of any local area or, if the value for such period cannot be ascertained, during any shorter period for which evidence may be available excluding famine years :

(*b*) the money rent payable by [ryots] [4] for land of a similar description and with similar advantages in the same village or neighbouring villages [4] [or where there are none such, in the village of a neighbouring taluk] ; and

(*c*) improvements effected by the landholder or the ryot in respect of the holding, and the rules laid down in section 32.

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[1] Section 39 was substituted for the original section by section 27 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-sections (1) and (2) were substituted for the original sub-sections by section 28 (i) *ibid.*

[3] The words " during the ten years preceding the date of the application " were substituted for the words "during the preceding ten years " by section 28 (ii) *ibid.*

[4] The word " ryots " was substituted for the words " occupancy ryots " and the words " or where there are none such, in the village of a neighbouring taluk " were inserted by section 28 (iii) *ibid.*

Prohibition against enhancement or reduction of rent for twenty years after commutation.

41. (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the grounds specified in clauses (ii) and (iii) of section 39 or on the ground of a subsequent alteration of the area of the holding, be enhanced for twenty years, nor shall it be reduced for twenty years save on the ground of alteration in the area of the holding or on the ground specified in clauses (*a*) and (*b*) of sub-section (1) of section 38.

(2) The said period of twenty years shall be counted from the date on which the commutation takes effect.

Alteration of rent with area.

Alteration of rent in respect of alteration in area.

42. (1) Every ryot shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the holding of land which having previously belonged to the holding was lost by diluvion or otherwise without any reduction of the rent being made ; and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved to exist in the area of his holding as compared with the area for which rent has been previously paid by him unless it is proved that the deficiency is due to the loss of land which was added to the area of the holding by alluvion or otherwise and that an addition has not been made to the rent in respect of the addition to such area.

(2) [* * * * *][1] In cases of dispute, no alteration of the amount of rent under this section shall be allowed except under the order of the Collector upon application made to him for that purpose by the landholder or the ryot concerned.

[2][(3) Notwithstanding anything contained in sub-section (2), where by agreement in writing the rent is fixed in proportion to the area or where by agreement in writing the rent is fixed on the basis of an assumed area and the agreement provides for the alteration of the rent when the actual area is found to vary from the assumed area, it shall be lawful for the landholder or the ryot to enforce an increase or decrease of the rent, as the case may be, in consequence of an increase or decrease of area measured in the same unit.]

43. [* * * * *].[3]

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[1] The words "Provided that" were omitted by section 29 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-section (3) was added by section 29 (ii) *ibid.*

[3] Section 43 was omitted by section 30 *ibid.*

Rules for the determination of alteration of rent with area.

44. [1][(1) Upon an application under sub-section (2) of section 42 being made, or in proceedings in which it is claimed to enforce an increase or decrease of rent as provided in sub-section (3) of that section, the Collector shall determine the area for which rent has previously been paid and the amount, if any, to be added to or deducted from the rent.]

(2) In determining the area for which rent has been previously paid, the Collector shall have regard to each of the following considerations :—

(*a*) the origin and conditions of the occupancy—for instance, whether the rent was a consolidated rent for the entire holding ;

(*b*) any reason which may have led the landholder to permit the ryot to hold the additional land whether in consideration of an addition to his total rent or otherwise ;

(*c*) any reason which may have led the ryot to consent to hold a reduced area without a corresponding reduction in his rent ;

Explanation.—In determining whether the landholder has permitted the ryot to hold the additional land or whether the ryot has consented to hold the reduced area without a corresponding reduction in rent, the Collector may take into consideration the length of time during which the occupancy has lasted without dispute as to rent or area ;

and

(*d*) the length of the measure used or in local use at the time of the origin of the occupancy as compared with that used or in local use at the time of the application.

(3) In determining the amount to be added to the rent, the Collector shall have regard to the rates payable by ryots for lands of a similar description and with similar advantages in the village or neighbouring villages, and shall not in any case fix any rent which in the circumstances of the case is unfair or inequitable.

(4) When the landholder or ryot is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.

(5) In case of abatement the deduction from the rent shall be proportionate to the diminution in the total yearly

[1] Sub-section (1) was substituted for the original sub-section by section 31 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

produce of the holding or, in default of satisfactory proof thereof, the deduction shall be proportionate to the diminution in the area of the holding.

(6) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

45. [* * * * * *].[1]

[* * * * * *].[2]

46. [* * * * * *].[2]

47. [* * * * * *].[2]

48. [* * * * * *].[2]

49. [* * * * * *].[2]

CHAPTER IV.

[3][PATTAS] AND [MUCHILIKAS.][3]

Ryots to whom the chapter applies.

50. (1) The provisions of this chapter shall apply to all ryots [* * * * * * *].[4]

Right of ryot and landholder to obtain patta and muchilika.

(2) Every ryot shall be entitled to call upon his landholder to grant him a [patta][3] for any current revenue year and every landholder shall be entitled to call upon his ryot to give him a [muchilika][3] for any current revenue year in exchange for a [patta].[3]

[5][(3) The ryot shall at his request be entitled to have all the lands in his possession in a single village entered in a single patta.]

Contents of patta and muchilika.

51. (1) The [patta][3] shall contain the names of the parties; the local description and extent of the land; the rate or amount and nature of the rent payable thereon, according as it may be payable in money, in kind or by a share of the produce; [6][any sum payable by the ryot on account of pasturage fees or fishery rents;] any local tax, cess or fee or charge payable with the rent according to law or usage having the force of law; the period or periods at which [they shall be paid],[7] the date of the [patta][3] and all special terms

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[1] Section 45 was omitted by section 32 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sections 46 to 49 and the heading thereto were omitted by section 33 *ibid.*

[3] The words "patta," "pattas," "muchilika" and "muchilikas" were substituted respectively for the words "puttah," "puttahs," "muchalka" and "muchalkas" by section 2 *ibid.*

[4] The words "with a permanent right of occupancy and also so far as may be to ryots holding old waste under a landholder otherwise than under a lease in writing" were omitted by section 34 (i) *ibid.*

[5] Sub-section (3) was added by section 34 (ii) *ibid.*

[6] The words within square brackets were inserted by section 35 *ibid.*

[7] The words "they shall be paid" were substituted for the words "such rent, local tax, cess, fee or charge is to be paid" by *ibid.*

by which it is intended that the parties shall be bound and shall be signed by the landholder. The [muchilika][1] may, at the option of the landholder, be a counterpart of the [patta][1] or a simple engagement to hold according to its terms and shall be signed by the ryot.

(2) Any stipulation in restraint of cultivation or of harvesting by a ryot or for the giving up of possession of his land by [a ryot][2] at any specified time shall be void and of no effect.

Period for which pattas and muchilikas may be exchanged.

52. (1) [Pattas][1] and [muchilikas][1] may be exchanged for periods of one or more revenue years, but no landholder shall be bound to tender, and no ryot to accept, a [patta][1] for a period of more than one revenue year.

(2) Subject to the provisions of sub-section (3), the tender of a [1][patta] or [muchilika][1] and the demand for a [muchilika][1] or [patta][1] shall be made within twelve months of the commencement of the period to which the [patta][1] or [muchilika][1] relates.

(3) [Pattas][1] and [muchilikas][1] accepted, exchanged or decreed for any revenue year shall remain in force until the commencement of the revenue year for which fresh [1][pattas] and [muchilikas][1] are accepted, exchanged or decreed; provided that where a [1][patta] or [muchilika][1] has continued in force for more revenue years than one, no fresh [patta][1] or [muchilika][1] for the same holding shall take effect until the commencement of the revenue year next succeeding that in which it is tendered, accepted, exchanged or decreed.

53. [3][* * * * * *].

Patta to be tendered.

[4][**54.**] The tender of a [1][patta] may be made to the ryot [5][by delivering a copy to him or to some adult male member of his family or to his authorized agent or when such service cannot be effected, by affixing a copy in the village chavadi or, if there is no village chavadi, in some conspicuous place in the village and by sending a copy by post to the ryot at his last known place of residence], or, if the Collector on the application of the landholder shall so permit, in respect of

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[1] The words "patta", "pattas", "muchilika" and "muchilikas" were substituted respectively for the words "puttah", "puttahs" "muchalka" and "muchalkas" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "a ryot" were substituted for the words "an occupancy ryot" by section 35 *ibid.*

[3] Section 53 was omitted by section 36 *ibid.*

[4] Sub-section (1) of section 54 was renumbered as section 54 and sub-section (2) was omitted by section 37 (i) *ibid.*

[5] The words within square brackets were substituted for the words and figures "in the manner provided for the service of notice under sub-section (2) of section 78" by *ibid.*

any estate or any portion of an estate, by filing it in the office of the Collector or such other officer as the Local Government may by general or special order direct, and, if so filed, the Collector or such officer shall cause the [patta] [1] to be served on the ryot in the aforesaid manner at the cost of the landholder [and shall forthwith give intimation of the date of service to the landholder by post] [2]

Suit to obtain patta.

55. When a landholder, for three months after demand, fails to grant a [1] [patta] in such terms as the ryot is entitled to receive, it shall be lawful for the ryot to sue for such a [1] [patta] before the Collector.

Suit to enforce acceptance of patta.

56. When a ryot for one month after tender fails to accept the [1] [patta] tendered to him and to give a [muchilika] [1] in exchange, the landholder may sue before the Collector to enforce acceptance of such [patta]. [1]

Procedure in adjudication of suits to enforce grant or acceptance of patta.

[3] [**57.** In adjudicating suits under sections 55 and 56 the Collector shall proceed as herein mentioned. If he finds that the defendant is not bound to grant or accept a patta he shall dismiss the suit. If he finds that the defendant is bound to grant or accept a patta he shall decide whether the patta demanded or tendered is a proper one and if he so finds shall pass a decree directing the defendant to grant the patta in exchange for a muchilika or accept the patta and give a muchilika in exchange. If the Collector finds that the patta demanded or tendered is not a proper one he shall decide what the terms of the patta should be and shall embody such terms in the decree passed by him and the decree shall be of the same force and effect as if a patta and muchilika had been exchanged.]

Pattas and muchilikas to be signed and registered by the karnam.

58. The karnam of the village in which the holding is situated shall regularly sign and register [1] [pattas] and [1] [muchilikas] in respect of the holding.

CHAPTER V.

Payment and Arrears of Rent.

Payment of rent in instalments.

59. Rent shall be payable in instalments according to agreement or in the absence of agreement according to established usage.

Arrear of rent.

60. An instalment of rent not paid on the day on which it falls due, becomes on the following day an arrear of rent.

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[1] The words "patta," "pattas," "muchilika" and "muchilikas" were substituted respectively for the words "puttah," "puttahs," "muchalka" and "muchalkas" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "and shall forthwith give intimation of the date of service to the landholder by post" were inserted by section 37 (2) *ibid.*

[3] Section 57 was substituted for the original section by section 38 *ibid.*

61. [1] [Subject to the provisions of this Act, an arrear of rent shall bear simple interest] at the rate of one-half per centum per mensem from the date on which the arrear fell due until it is liquidated. Interest on arrears.

[2] [**62.** (1) Every ryot who makes a payment on account of rent shall be entitled to obtain forthwith a written receipt for the amount paid by him signed by the landholder or other person authorized to receive the rent. Right of ryot to receipt for rent.

(2) The landholder or other person so authorized shall prepare and retain a counterfoil of the receipt.]

63. (1) The receipt shall specify such of the following particulars as can be specified by the landholder at the time of payment, namely,— Contents of valid receipt.

(*a*) the names of the payer and payee ;

(*b*) the name of the village in which the holding is situated ;

(*c*) the amount paid ;

(*d*) a description of the holding on account of which the rent has been paid ;

(*e*) the year and instalment to which the payment has been credited ;

(*f*) whether the payment has been accepted as a payment in full, or only on account ; and

(*g*) the date on which the rent is paid.

Provided that the Local Government may prescribe from time to time a modified form either generally or for any particular local area or class of cases.

(2) If a receipt does not contain substantially the particulars required by this section, it may be presumed to be an acquittance in full of all arrears of rent up to the date on which the receipt was given.

64. (1) When a ryot makes a payment on account of rent, he may declare the year and the instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly. Credit of payments on account of instalments.

(2) If he does not make any such declaration, the payment may at the option of the landholder be credited on account of any arrear not barred by limitation.

65. [3] [If a landholder or other person receiving rent on his behalf refuses without reasonable cause] to deliver to a Compensation for withholding receipt.

[1] The words within square brackets were substituted for the words "An arrear shall bear simple interest" by section 39 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 62 was substituted for the original section by section 40 *ibid.*

[3] The words "If a landholder or other person receiving rent on his behalf refuses without reasonable cause" were substituted for the words "If a landholder without reasonable cause refuses" by section 41 *ibid.*

ryot a receipt [as required by][1] sections 62 and 63 for any rent paid by him, or to credit the rent paid to the year and instalment to which the ryot has requested the payment to be credited, the ryot shall be entitled to [recover from the landholder on application made to the Collector for that purpose][2] compensation not exceeding double the amount or value of the rent paid.

Place of payment.

66. The payment shall, except in cases where a ryot is allowed under this Act to deposit his rent, be made at the landholders' village office, or at such other convenient place within five miles of the village in which the holding is situated as may be appointed in that behalf by the landholder :

Provided that the ryots may pay their rent to the landholder by postal money-orders under rules which the Local Government may prescribe :

Provided also that when rent is payable in kind it shall be delivered at the landholder's granary in the village in which the holding is situated or at such other granary within ten miles of the village as may be provided in that behalf by the landholder [but the landholder shall bear the cost of transport from the threshing floor to the granary if the distance exceeds three miles.][3]

Effect of receipt of person recognized or nominated as landholder for receiving rent.

67. Where rent is due to a landholder, the receipt for any payment on that account of the person recognized or nominated under sub-section (5) of section 3 as landholder for the purpose of receiving rent [or of the person authorized to receive the rent][4] shall be a sufficient discharge for the rent, and the person liable for the rent shall not be entitled to plead in defence to a claim by a person so recognized or nominated that the rent is due to a third person. But nothing in this section shall affect any remedy which any such third person may have against the landholder so recognized or nominated.

Deposit of Rent.

Application to deposit rent.

68. (1) In any of the following cases in which rent is due and is payable in money, namely,—

(*a*) when a ryot tenders money on account of rent due from him, and the landholder refuses to receive it or refuses to grant a receipt for it ; or

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[1] The words "as required by" were substituted for the words "in accordance with the provisions of" by section 41 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "recover from the landholder on application made to the Collector for that purpose" were substituted for the words "recover from him by a suit before the Collector" by *ibid.*

[3] The words within square brackets were added by section 42 *ibid.*

[4] The words within square brackets were inserted by section 43 *ibid.*

(*b*) when the rent is payable to two or more persons jointly, and the ryot is unable to obtain the joint receipt of the said persons for the money, and no person has been empowered to receive the rent on their behalf ; or

(*c*) when two or more persons severally claim the right to collect the rent or when the ryot entertains a bona fide doubt as to who is entitled to receive the rent which has become due ;

the ryot may present to the [1] [Collector], an application in writing for permission to deposit in the office of [the Collector] [1] the full amount of rent then due [2] [together with interest, if any, payable thereon].

(2) The application shall contain a statement of the grounds on which it is made ; and shall state the item or items to which the payment is to be credited and also—

in case (*a*), the name of the person to whose credit the deposit is to be entered ;

in case (*b*), the names of the persons to whom the rent is due, or of so many of them as the ryot may be able to specify ; and

in case (*c*), the name of the person or persons to whom the rent was last paid and of the person or persons now claiming it.

[3] [* * * * * * * *].

69. (1) If [on a perusal of the application] [4] it appears to the [5] [Collector] [6] [to whom it is made] that the applicant is entitled under that section to deposit the rent, he shall receive the amount and shall give a receipt for it. **Receipt of deposit by Collector to be a valid acquittance.**

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent deposited as

1 The words "Collector" and "the Collector" within square brackets in section 68 (1) (*c*) were substituted respectively for the words "Collector or such other officer as the Local Government may appoint" and "the said Collector or other officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The words within square brackets were added by section 44 (i) *ibid.*

3 Sub-section (3) was omitted by section 44 (ii) *ibid.*

4 The words "on a perusal of the application" were inserted by section 45 (i) *ibid.*

5 The word "Collector" was substituted for the words "Collector or other officer" by section 3 (2) *ibid.*

6 The words "to whom it is made" were substituted for the words "to whom an application is made under the last foregoing section" by section 45 (i) (*b*) *ibid.*

aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in [case (*a*) of sub-section (1) of section 68][1], by the person specified in the application as the person to whose credit the deposit was to be entered ;

in [case (*b*) of that sub-section],[1] by the persons to whom the rent is due ; and

in [case (*c*) of that sub-section] [1], by the person entitled to receive the rent.

Notification of receipt of deposit of rent.

[2] [**70.** The Collector receiving the deposit shall forthwith cause to be affixed, in a conspicuous place at his office and in the vernacular language of the district, a notification of the receipt of such deposit containing a statement of all material particulars and shall also—

in case (*a*) of sub-section (1) of section 68, cause a notice of the receipt of the deposit to be served on the person specified in the application as the person to whose credit the deposit was to be entered ;

in case (*b*) of that sub-section, cause a notice of the receipt of the deposit to be posted at the landholder's village office or residence and in some conspicuous place in the village in which the holding is situated ; and

in case (*c*) of that sub-section, cause a like notice to be served on every person who, the Collector has reason to believe, claims or is entitled to the deposit.]

Payment or refund of deposit.

71. (1) The [Collector][3] may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, and shall, if deposit has been made under clause (*c*) of sub-section (1) of section 68, and there has been no joint application for payment by the disputing parties, retain the amount pending the decision of the Civil Court as to the person so entitled :

[4] [Provided that no order for payment shall be made within fifteen days from the date on which the notification referred to in section 70 was affixed in the office of the Collector receiving the deposit.]

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1 The words figures and letters "case (*a*) of sub-section (1) of section 68", "case (*b*) of that sub-section" and "case (*c*) of that sub-section" were substituted respectively for the words and letters "case (*a*) of the last foregoing section", "case (*b*) of that section" and "case (*c*) of that section" by section 45 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 Section 70 was substituted for the original section by section 46 *ibid.*

3 The word "Collector" within square brackets was substituted for the words "Collector or other officer" by section 3 (2) *ibid.*

4 The proviso was added by section 47 *ibid.*

(2) The payment less the money-order commission may be made by postal money-order under such rules as the Local Government may prescribe.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a competent court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the [Collector] [1] with whom the rent was deposited or on his producing such other evidence of his having made the deposit as the Collector may consider sufficient.

Nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same by suit in a civil court from a person to whom it has been paid under this section.

Barring of suits.

72. No suit or other proceeding shall be instituted against the Secretary of State for India in Council or against any officer of the Government, in respect of any thing done by a [Collector] [1] regarding a deposit under sections 68 to 71.

Appraisement and Division of Produce.

Rights and liabilities as to possession of crop.

73. (1) Where rent is taken by appraisement of the standing crop the ryot shall be entitled to the exclusive possession of the crop.

(2) Where rent is taken by division of the produce, the ryot shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case, the ryot shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landholder. But before commencing to cut or gather the crop the ryot shall give reasonable intimation to the landholder or his authorized agent of his intention to do so.

(4) If the ryot cuts or removes any portion of the crop or of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof, the produce may be deemed to have been as full as the fullest crop of the same description in the neighbourhood on similar land for that harvest.

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1 The word "Collector" within square brackets was substituted for the words "Collector or other officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Application to Collector for appraisement, division or determination of produce.

74. Where rent is taken by appraisement of the crop or division of the produce—

(*a*) if either the landholder or the ryot fails to attend, either personally or by agent, at the proper time for making the appraisement or the division ; or

(*b*) if there is a dispute as to the quantity and value of the crop or as to what is a full crop under sub-section (4) of section 73, or as to the division of the produce,

an application may be presented by either party to the Collector requesting that an officer be deputed to make the division or appraisement or determination.

With the application the applicant shall deposit such fee as may be prescribed by the Local Government in rules made in this behalf.

Procedure on such application.

[1][**75.** (1) On receiving such application, the Collector shall depute an officer by whom such division or appraisement or determination of rent shall be made and issue notice to the applicant and to the opposite party to appear before the said officer on the date and at the time and place specified in the notice together with a person who is a resident of the neighbourhood to serve as an assessor to assist in the division of the produce or appraisement or determination of the crop.

(2) If the opposite party objects that the rent is not taken by division or appraisement or that no rent is payable, the officer deputed shall record the objection but shall proceed as hereinafter provided and transmit the objection when submitting his award to the Collector under sub-section (6).

(3) If, on or before the date appointed in the notice issued under sub-section (1), the dispute has been adjusted, the officer shall not take any further proceedings under this section.

(4) If either party fails to attend or to secure the attendance of an assessor as required by the notice referred to in sub-section (1), the officer deputed shall nominate an assessor on his behalf.

(5) The officer deputed shall record, and in making the award shall have regard to, the opinions of the assessors but shall not be bound thereby.

(6) In the case of a division of the produce, if the parties agree to the award, the division shall be made accordingly. If the parties do not agree to such division, and in all cases in which the rent is payable by appraisement of the standing crop, or where the value of a full crop has to be determined, the officer deputed shall make an estimate of the produce or

[1] Section 75 was substituted for the original section by section 48 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

crop and determine the rent payable. He shall then deliver his award after notice to the parties and submit it with a report of his proceedings to the Collector.

(7) The parties shall be at liberty to file objections to the award within fifteen days after the day on which the award was delivered.

(8) (*a*) The Collector shall hear such objections and the objections, if any, recorded under sub-section (2) and pass orders thereon after such further inquiry, if any, as may appear to him to be necessary.

(*b*) If an objection is raised that the rent is not payable by division or appraisement, or that no rent is payable, and the Collector upholds the objection, he shall set aside the award.

(*c*) If the objection is disallowed or if any other objection is raised or if no objection is raised, the Collector, except when the assessors agree with the officer deputed in which case the award shall, subject to the provisions of clause (*e*), be final, may confirm the award or may, after giving an opportunity to the parties to be heard, modify the award as he thinks fit.

(*d*) The Collector's order for the payment of rent and costs, if any, shall be final unless an objection of the nature described in clause (*b*) has been raised and shall be enforceable as a decree for arrears of rent.

(*e*) Where an objection of the nature described in clause (*b*) has been raised, the Collector's decision thereon shall be subject to an appeal to the District Court. Such appeal shall be presented within thirty days from the date of the Collector's decision.

(9) In any proceedings under this section the Collector may by order prohibit the removal of the produce until appraisement or division has been effected.]

Power of entry.

76. For the purpose of making the division and appraisement, the officer deputed, with his assessors, may enter upon any land on which or into any building in which the produce is.

CHAPTER VI.

Recovery of Rent by Suit or by Distraint and Sale of Movable Property or of the Holding.

Modes of recovery of arrears of rent.

[1] [**77.** Subject to the provisions hereinafter contained, a landholder shall be entitled to recover any arrear of rent by a suit before the Collector, by distraint and sale of movable property or by sale of a ryot's holding.

[1] Section 77 was substituted for the original section by section 49 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Explanation.—Movable property for the purpose of this section shall include growing crops and the produce of land or of trees in the defaulter's holding.]

Conditions for recovery of arrears by distraint of movable property or sale of holding.

[1] [**77 A.** No landholder shall have power to proceed against a ryot for the recovery of rent by distraint and sale of his movable property or by sale of his holding unless he shall, have exchanged a patta and muchilika with such ryot or tendered him such a patta as he was bound to accept or unless a valid patta or muchilika continues in force ; in the case of distraint and sale of movable property, the exchange of patta and muchilika or tender of such a patta as the ryot was bound to accept shall be not less than fifteen days prior to the distraint.]

Enforceability of partially correct patta.

[1] [**77 B.** A patta tendered by a landholder which is partially but not entirely correct shall nevertheless be enforceable to the extent to which it is found to be correct.]

Provision where tendered patta includes claim exceeding that due under previous engagement.

[1] [**77 C.** Where the patta tendered for a revenue year includes any claim for rent in excess of the amount due under a previous subsisting engagement, all proceedings for the recovery of the rent by distraint and sale of movable property or by sale of the holding shall, on payment of such amount, be stopped and not proceeded with further. The claim for the balance shall be enforceable only by a suit before the Collector :

Provided that nothing contained in this section shall apply to the case referred to in sub-section (3) of section 42, in so far as the excess is claimed to be due to an increase in such area.]

Arrears which may be enforced by distraint.

[1] [**77 D.** A landholder shall not be entitled to distrain, except for an arrear of rent which has accrued due within the twelve months preceding the demand under section 78.]

Prohibition of distraint where decree for rent has been obtained.

[1] [**77 E.** Where the landholder has sued for any arrear of rent and obtained a decree he shall have no right to distrain movable property for such arrear or to bring the holding to sale therefor under sections 111 to 131 and all proceedings to sell the holding for such arrear taken before the passing of the decree shall be stopped and not proceeded with further.]

Articles exempted from distraint.

[1] [**77 F.** The following articles shall not be distrained for arrears of rent :—

(1) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, and such personal ornaments of a woman as in accordance with religious usage cannot be parted with by her ;

(2) his ploughs and implements of husbandry, ploughing cattle and manure stocked by the ryot or cultivator and such seed grain as may be necessary for the due cultivation of the holding in the ensuing year.]

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[1] Sections 77-A to 77-F were inserted by section 50 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Distraint how to be effected.

78. (1) Before or at the time when a distraint is made the distrainer, who may be either the landholder or his duly authorized agent, shall serve on the defaulter a written demand specifying the amount of the arrear together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall be dated and signed by the distrainer and shall within one year from the date on which the arrear became due be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode provided that it is in the neighbourhood of the land to which the distress refers or to his authorized agent, or, when such service cannot be effected, by affixing a copy of the notice on some conspicuous part of the land to which it refers. The demand shall set forth—

(*a*) the amount of the arrear due, with interest, if any ;

(*b*) the holding in respect of which it is due ;

(*c*) the period in respect of which it is due.

Distraint to be proportionate to arrear and list of property to be served on owner and copy sent to sale officer.

79. (1) Unless the demand is immediately satisfied, the distrainer may distrain property to the amount of the arrear [with interest][1] and the costs of the distress and shall forthwith prepare a list or description of the said property, date and sign the same, and without delay serve it on the defaulter in the manner provided in the preceding section for the service of a written demand, and a copy of such list or description, together with a copy of the written demand and account, shall be sent by the distrainer within ten days of the service of the demand on the defaulter to the public officer hereinafter called the sale officer empowered under Madras Act VII[2] of 1839 to sell property distrained for arrears.

(2)[3] [If any person other than the defaulter notifies the distrainer that he is the cultivator or the owner of the property] a copy of the demand and of the list or description of the property shall in like manner be served on or [4][delivered to such person in all cases in which the property distrained consists of—

(*a*) any crops or other products of the earth standing or ungathered on the holding ; and

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1 The words "with interest" were inserted by section 51 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The reference probably is to Act VII of 1839 of the Governor-General in Council.

3 The words "If any person other than the defaulter notifies the distrainer that he is the cultivator or the owner of the property" were substituted for the words "If the distrainer has notice that the cultivator is some person other than the defaulter" by section 51 (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

4 The words beginning with "delivered to" and ending with the word "homestead" at the end of section 79 (2) were substituted for the words "delivered to the cultivator" by section 51 (ii) *ibid.*

(*b*) any crops or other products of the earth which have grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for treading out grain or the like, whether in the fields or in a homestead.]

Distrainer may procure police assistance.

80. A person authorized to distrain may apply to the nearest police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made shall depute one or more police officers to be present at the time of such distress for such purpose.

Distress to be proportionate to arrears.

81. The distress shall not be excessive ; [1][* * * *] the value of the property distrained shall be as nearly as possible equal to the amount of the arrears due [1][with interest] and costs of distress.

Time of distress.

82. Distress shall be made after sunrise and before sunset and not otherwise.

Right to reap and preserve produce.

83. (1) Standing crops and other ungathered produce may, notwithstanding the distraint, be tended, and after notice to the distrainer be reaped, and gathered by the owner of the crop.

(2) If the owner of the crop neglects to tend, reap or gather the said crop or produce, the distrainer may do so at the expense of the owner.

(3) The distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose ; the person so appointed shall store the same in some convenient place in the neighbourhood at the expense of the owner.

What places distrainor may force open.

84. 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 distraining property belonging to a defaulter and kept 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.

Power to force open doors, and to enter zenana in presence of a police officer.

85. 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,

[1] The words "that is to say" were omitted and the words "with interest" were inserted by section 52 of the Madras Estates Land (Amendment Act, 1934 (Madras Act VIII of 1934).

are considered private, such distrainer shall report the fact to the officer in charge of the nearest police station. Thereupon the officer in charge of the station shall send a police officer to the spot, in the presence of whom the distrainer may break open the outer door of such dwelling-house, and also 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 the 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, if any, kept therein. If any such property be found, it shall immediately be removed from such apartments in order that they may be left free for the return of the former occupants.

Distrained cattle or goods not to be used.

86. The distrainer shall not work the bullocks or cattle or make use of the property distrained. He shall provide necessary food for cattle or other live-stock, and the cost thereof shall be a charge against the defaulting ryot and shall be recoverable as a cost of the distress.

Withdrawal of distress on deposit, payment or furnishing of security.

87. (1) After a distress has been made under this chapter and at any time before the date appointed for sale, the defaulter, the cultivator or the owner of the property may tender or pay the amount specified in the written demand under section 78 with subsequent interest and costs [1][or the amount referred to in section 77-C] to the distrainer, or may furnish security to the satisfaction of the distrainer, whereupon the distrainer shall give a written acknowledgment of the tender, payment or security, and shall withdraw the distress forthwith.

(2) If at any time before the sale of the distrained property, the defaulter or cultivator or owner of the property distrained pays to the sale officer, the amount specified in the written demand under section 78 with subsequent interest and costs [1][or the amount referred to in section 77-C], the sale officer shall grant a receipt for the same and shall withdraw the distress forthwith.

Liability of distrainer for loss of, or injury to, distrained property.

88. When property distrained may be stolen, lost, damaged or destroyed while in the keeping of the distrainer, by reason of his not having taken reasonable precautions for its preservation, the owner may sue the distrainer for damages before the Collector.

Claim of third person to right or interest in distrained property.

89. A third person claiming a right or interest in any of the movable property under distraint may before the date of sale make an application to the Collector or sale officer and

[1] The words, figures and letter " or the amount referred to in section 77-C " in sub-sections (1) and (2) of section 87 were inserted by section 53 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

the Collector shall thereupon hold or cause to be held an immediate inquiry, and if he sees sufficient cause for doing so, may postpone the sale of such property. The Collector shall pass such order upon the claim as he shall deem fit.

Delivery of property fraudulently conveyed to prevent distress or forcibly or clandestinely removed after distraint.

90. When after an application made by the distrainer it is proved to the satisfaction of the Collector that,

(*a*) a defaulter has made a fraudulent conveyance of movable property to prevent distress for arrears,

(*b*) any person has forcibly or clandestinely taken away movable property once distrained,

the Collector shall pass an order directing that the property be restored or that its value be paid to the distrainer.

Suit against orders under sections 89 and 90.

[1] [**91.** Any person aggrieved by an order under section 89 or section 90 may institute a suit before the Civil Court within one year from the date of the order to establish the right which he claims to the property in dispute and for compensation.]

Application for sale.

92. (1) The distrainer shall within fifteen days from the date of the distraint apply to the sale officer for the sale of the property specified in the list or description mentioned in section 79.

(2) If no such application is made the distraint on the property shall cease to be in force at the expiration of the said period of fifteen days.

Contents of application.

93. The application shall be in writing and shall specify the following particulars, namely,—

(*a*) the name and residence of the defaulter and in the case provided for in sub-section (2) of section 79, [2][also of the person who notifies that he is the cultivator or the owner ;]

(*b*) the amount due ;

(*c*) the date of the distraint ; and

(*d*) the place in which the distrained property is.

Fee for service of notice.

94. Together with the application, the distrainer shall deliver to the sale officer the fee prescribed for the service of notice.

Procedure on receipt of application.

95. (1) Immediately on receipt of such application and fee the sale officer shall send a copy of the application and of the list or description mentioned in section 79 to the Collector and shall serve a notice on the defaulter, requiring him either to pay the amount demanded, or to institute a suit before the Collector to contest the distraint within fifteen days from the date of the service of the notice.

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[1] Section 91 was substituted for the original section by section 54 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were substituted for the words "of the cultivator also" by section 55 *ibid.*

(2) In the case provided for in sub-section (2) of section 79 similar notice shall be served on the cultivator [1] [or owner who may also file a suit before the Collector to contest the distraint within fifteen days from the date of the service of such notice.]

(3) The sale officer shall by order fix a date for the sale which shall not be less than fifteen days from the date of service of the notice under sub-section (1) or sub-section (2), as the case may be, and shall cause it to be proclaimed by beat of drum in the village where the distrained property is; he shall also post a copy of his order in some conspicuous place in the village [1] [and communicate it in person or by post to the defaulter and to the cultivator or owner.]

In fixing the date of sale, not less than seven days shall be allowed from the date of the aforesaid proclamation.

(4) The notice and proclamation shall specify—

(*a*) the property to be sold;

(*b*) the amount mentioned in the application under section 93; and

(*c*) the time and place at which the sale is to be held.

[2] [(5) If for any reason the sale officer is unable to hold the sale on the date fixed under sub-section (3), he may, by order, adjourn the sale to another day. Such order shall be proclaimed and posted in the village in the same manner as an order under sub-section (3). A copy of such order shall be delivered in person or sent by post to the defaulter and to the cultivator or owner.]

When sale may take place.

96. If the defaulting ryot or [3] [cultivator or owner aforesaid] does not, within fifteen days from the date of the service of the notice referred to in section 95, file a suit before the Collector to set aside the distress, or if such a suit is filed and is decided against him by the Collector and if the sale has not been countermanded or postponed under section 89, section 103, or section 104, the sale officer, unless the said demand, with such expenses of the distraint as are allowed by him, is discharged in full, shall proceed in the manner hereinafter described to sell the property or such part of it as may be necessary to satisfy the demand with the expenses of the distraint and the costs of the sale.

Place of sale.

97. The sale shall ordinarily be held in the village where the property was distrained or is stored or at the nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there. In any case, the

[1] The words within square brackets were added by section 56 (i) and (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-section (5) was added by section 56 (ii) *ibid.*

[3] The words within square brackets were substituted for the words "cultivator aforesaid" by section 57 *ibid.*

distrainer shall be bound to produce the property at the time and place of sale, and the cost of the transport thereof shall be considered part of the cost of distress.

Sale of perishable articles.

98. Notwithstanding anything contained in this chapter, crops or products which are in their nature speedily perishable shall be sold as early as possible by the distrainer, and the sale-proceeds shall be deposited with the sale officer.

When crop may be sold.

99. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself or by any person appointed by him in this behalf and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

100. The property shall be sold by public auction, in one or more lots as the sale officer may think advisable, and if the demand with the costs of distress and sale is satisfied by the sale of a portion of the property the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

[1] [**101.** If, on the property being put up for sale, a fair price in the estimation of the sale officer is not offered for it and if the defaulter, cultivator or owner of the property or a person authorized to act in his behalf or the distrainer applies to have the sale postponed until the next day or the next market day if a market is held at or near the place of sale, the sale shall be postponed until the next day or until the next market day, as the case may be, and shall then be completed, whatever price may be offered for the property.]

Payment of purchase money.

102. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold and any deficiency in price which may happen on such second sale and all expenses attending such second sale shall be [2][reported to the Collector by the sale officer and the Collector may, on application by the distrainer, the defaulter, the cultivator or the owner and after notice to the defaulting purchaser and hearing his objections, if any, certify the amount recoverable from him and the amount so certified by the Collector shall be recoverable from the defaulting purchaser at the instance either of the distrainer, the defaulter, the cultivator or the owner as if the Collector had passed a decree therefor.]

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[1] Section 101 was substituted for the original section by section 58 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were substituted for the words "certified to the Collector by the sale officer and shall at the instance either of the distrainer, the defaulter or the cultivator, without prejudice to any other remedy which he may have, be recoverable in a suit before the Collector from the defaulting purchaser" by section 59 *ibid.*

Any sum recovered under this section from the defaulting purchaser shall be dealt with under section 106 as if it were proceeds of the sale.

Obligation to report irregularity in distraining.

103. The sale officer shall bring to the notice of the Collector any material irregularity committed by the distrainer under colour of this Act, and may in such case postpone the sale pending the Collector's order.

Effect of irregularity in distraining.

104. (1) If it shall come to the knowledge of the Collector that the distrainer has not served on the ryot a written demand as required by section 78, or has failed to serve the list or description mentioned in section 79, [* * * * * * *][1] or that the distress was excessive, the Collector may either order the sale to proceed, or direct the issue of another notice or proclamation of sale, in which case he shall order that the costs of the resale shall be borne by the distrainer.

(2) If the Collector finds that the distraint is vexatious or groundless, he [shall order][2] the restoration of the distrained property.

Certificate to be given to purchaser.

105. When the purchase-money has been paid in full, the sale officer shall deliver the property to the purchaser and shall give him a certificate signed by himself, describing the property purchased and the price paid.

Disposal of proceeds of sale.

106. (1) From the proceeds of every sale of distrained property under this Act, the sale officer shall make a deduction at a rate not exceeding one anna in the rupee on account of the costs of the sale, and shall remit the amount so deducted to the Tahsildar.

(2) He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distraint, and of the issue of the notice and proclamation of the sale mentioned in section 95 to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

(3) The remainder shall be applied to the [3][discharge of the amount for which the distraint was made with subsequent interest up to the date of payment.]

(4) The surplus (if any) shall be delivered to the person whose property has been sold and he shall receive from the sale officer a receipt for any arrears discharged from the proceeds of sale.

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[1] The words and figures "or has failed to apply to the sale officer for an order under section 92" were omitted by section 60 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "shall order" were substituted for the words "may order" by section 60 (ii) *ibid.*

[3] The words within square brackets were substituted for the words "discharge of the arrear for which the distraint was made" by section 61 *ibid.*

(5) If either the distrainer, or the owner of the distrained property, shall be dissatisfied with the sale officer's decision, the Collector shall, on an application being made to him by either party, determine the expenses incurred in distraining the property and bringing it to sale.

Prohibition against bidding for or purchase of property by sale officer or subordinate.

107. No officer holding a sale of property under this Act and no person employed by or subordinate to such officer, shall either directly or indirectly bid for, acquire or attempt to acquire any interest in any property sold at such sale.

Right of tenant or cultivator to deduct from rent amount paid for his landlord.

108. (1) When an arrear of rent is realized from a tenant or cultivator by proceedings in distraint by any person other than his immediate landlord the tenant or cultivator shall be entitled to deduct the amount so realized from any rent payable by him to such landlord, and such landlord, if he is not the defaulter, shall in like manner be entitled to deduct the same amount from any rent payable by him to his landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of any tenant or cultivator making a payment under section 87 to institute a suit in a Civil Court for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between distress by landholder and attachment by court.

109. When any conflict arises between the right of a landholder distraining produce over which he has a first charge under sub-section (1) of section 5 and the right of a person claiming under an attachment by a Civil Court, the right of the landholder shall prevail; but if the property is sold by a Collector in consequence of such landholder's distress the surplus proceeds of the sale shall not be paid under section 106 to the person whose property has been sold, but shall be deposited in the Court from which the order of attachment issued.

Tender of amount under protest to be deemed valid.

110. A tender of the amount of the arrears of rent claimed by the landholder shall be deemed valid though made under protest, and on such tender being made the distrainer shall be bound to refrain from distraining or selling the property, and if a distraint has been made to release the property distrained provided that when the amount so tendered is received, the fact that the payment was made under protest shall be stated in the receipt given to the person making the payment.

Sale of Ryot's Holding.

Sale of holding.

111. When an arrear is not paid within the revenue year in which it accrued due, it shall be lawful for the landholder to sell the holding or any part thereof, in the manner hereinafter provided, in satisfaction of the arrear and of interest thereon and of costs, if any, of the sale.

Notice of intention to sell.

[1] [**112.** (1)] When the landholder to whom an arrear is due intends to avail himself of the powers given by the last preceding section, he shall serve on the defaulter through the Collector a written notice stating the amount due for arrears, interest and costs, if any, the period for which and the holding in respect of which it is due, and informing him that if he does not pay the amount or [institute a suit][2] before the Collector contesting the right of sale within thirty days from the date of service of the notice, the said holding or any part thereof specified in the said notice will be sold. Such notice shall be [delivered to the Collector][3] within one year from the end of the revenue year for which the arrear is due.

[4] [Four copies of the notice together with the fee for service thereof shall be sent to the Collector who shall cause service to be effected upon the defaulter in the manner provided in sub-section (2) of section 78 for the service of a written demand. A copy of the notice shall also be sent by post to the defaulter.

Copies of the notice shall in every case be posted at conspicuous places on the land to which it relates and in the village where the land is situated.]

[5] [(2) Any person having an interest in the holding or part thereof who would be affected by its sale may institute a suit before the Collector contesting the right of sale within the period fixed in sub-section (1).]

Intimation of date of service to landholder.

113. Intimation of the date of service shall forthwith be given to the landholder by post.

Application for sale.

[6] [**114.** If the amount specified in the notice under section 112 has not been paid and if no suit contesting the right of sale has been instituted before the Collector within thirty days from the date of service of the said notice, or if such suit has been instituted and the defaulting ryot has been declared to be liable to pay the amount in whole or in part, the landholder may apply to the Collector for sale.]

Period of limitation for application under section 114.

115. (1) If no suit has been instituted, such application shall be made within forty-five days of the posting by the Collector of intimation of service under section 113.

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1 Section 112 was renumbered as sub-section (1) of section112 by section 62 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The words "institute a suit" were substituted for the words "file a suit" by *ibid.*

3 The words "delivered to the Collector" were substituted for the words 'sent to the Collector" by *ibid.*

4 The second paragraph of section 112 (1) was substituted for the original paragraph by*i bid.*

5 Sub-section (2) of section 112 was added by section 62 (2) *ibid.*

6 Section 114 was substituted for the original section by section 63 *ibid.*

(2) If a suit has been instituted and it has been disposed of against the defaulter or withdrawn, such application shall be made within thirty days of the date of the disposal or withdrawal.

Proclamation of sale and appointment of selling officer.

[1] [**116.** (1) On receipt of such application, the Collector shall issue notice to the parties and after hearing such of them as appear shall determine the extent of land to be sold, the lots if any in which it shall be sold, the order in which the lots shall be sold and the estimated value of each lot and shall order the sale, appoint an officer to conduct the sale, draw up the proclamation of sale and direct copies thereof in the vernacular of the taluk to be posted in his office and in the taluk office :

Provided that no such lot shall, except with the consent of the landholder, be less than a revenue field.

(2) The proclamation shall specify—

(*a*) (i) the land to be sold ;

(ii) the lots, if any, in which it shall be sold ;

(iii) the order in which the lots shall be sold ;

(iv) the estimated value of each lot ; and

(v) the rent or rates of rent payable in respect of each lot,

(*b*) subject to the provisions of section 77-C, the amount specified in the written notice under section 112 or where it has been declared by the Collector in a suit contesting the right of sale instituted under sub-section (1) or sub-section (2) of section 112 that the ryot is liable to pay only a part of the amount specified in such notice, such part, together in each case with costs and interest, if any, up to the date of the order of the sale ;

(*c*) any encumbrance subject to which the land is liable to be sold ; and

(*d*) every other thing which the Collector considers material for the purchaser to know in order to judge the nature and value of the land.]

Duty of selling officer.

[2] [**117.** (1) The selling officer shall, by order, fix the date, time and place of the sale and direct a copy of the order in the vernacular of the taluk to be posted in the taluk office and cause the contents of the order and of the proclamation of sale to be published by beat of drum in the village where the holding is situated. He shall also post a copy of the order and of the proclamation of sale in the village chavadi or if

[1] Section 116 was substituted for the original section by section 64 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 117 was substituted for the original section by section 65 *ibid*.

there is no village chavadi in a conspicuous place in the village and shall send a copy of his order and of the proclamation of sale to the defaulter by post. A copy of the order and proclamation shall be published in the District Gazette.

(2) In fixing the date of sale not less than thirty days shall be allowed from the date on which publication by beat of drum is made as aforesaid.

(3) If, for any reason, the selling officer is unable to hold the sale on the date fixed under sub-section (1), he may from time to time by order adjourn the sale to another day. Such order shall be published and posted in the village in the same manner as an order under sub-section (1). A copy of such order shall be delivered to the defaulter in person or sent to him by post.]

Sale when amount due is not discharged in full.

118. If the [1][amount mentioned in the proclamation of sale] is not discharged in full, the selling officer shall proceed in the manner hereinafter described to sell the property or such part of it as may be necessary to satisfy the demand with the expenses and the costs of the sale.

Place of sale.

119. The sale shall ordinarily be held in the village where the holding is situated or at the nearest place of public resort if the selling officer is of opinion that the property is likely to sell to better advantage there.

Manner of sale.

120. The property shall be sold by public auction [2][in one or more lots as may be specified in the proclamation of sale ;] [* * * * *][3] and if the demand with [the expenses and the costs of the sale][4] is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder.

Right of landholder to bid for holding and set off amounts due to him.

[5] [**120 A.** (1) A landholder who has brought to sale a ryot's holding or part thereof for an arrear of rent may bid for or purchase the same.

(2) Where the landholder purchases, the purchase-money and the amount due to him as mentioned in the proclamation may be set off one against the other.]

Postponement of sale.

121. If, on the property being put up for sale, a fair price in the estimation of the selling officer is not offered for it, and if the defaulter or a person authorized to act in his behalf, or the landholder applies to have the sale postponed until the

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[1] The words within square brackets were substituted for the words "said amount" by section 66 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "in one or more lots as may be specified in the proclamation of sale" were substituted for the words "in one or more lots as the selling officer may think advisable" by section 67 *ibid.*

[3] The words "but no such lot shall, except with the consent of the landholder be less than a revenue field" were omitted by *ibid.*

[4] The words "the expenses and the costs of the sale" were substituted for the words "the costs of distress and sale" by *ibid.*

[5] Section 120-A was inserted by section 68 *ibid.*

next day, the sale shall be postponed until that day and shall then be completed, whatever price may be offered for the property.

Stoppage of sale.

122. Every such sale shall be stopped, if the landholder withdraws his application for sale or if before the lot is knocked down, the amount mentioned in the proclamation, and [1][the expenses and the costs of the sale] are tendered to the selling officer, or proof is given to his satisfaction that such amount has been paid to the Collector. [The selling officer shall receive the amount tendered and transmit the same forthwith to the Collector.][2]

Payment of purchase-money and notification of sale.

[3] [**123.** (1) The price of every lot, or where the landholder is the purchaser, the balance of such price after deducting any amount which he sets off under sub-section (2) of section 120-A, or the poundage payable by him under clause (*b*) of sub-section (1) of section 127, whichever is greater, shall be paid to the selling officer at the time of the sale, or as soon thereafter as he may direct.

(2) In default of such payment the property shall be put up again and sold and any deficiency in price, which may happen on such second sale and all expenses attending such second sale including the poundage payable in respect thereof, shall be certified to the Collector by the selling officer and the Collector may, on application by the landholder or the defaulter and after notice to the defaulting purchaser and hearing his objections, if any, certify the amount recoverable from him and the amount so certified by the Collector shall be recoverable from the defaulting purchaser at the instance either of the landholder or the defaulter, as if the Collector had passed a decree therefor.

Any sum recovered under this sub-section from the defaulting purchaser shall be dealt with under section 127, as if it were proceeds of the sale.

(3) As soon as the payment referred to in sub-section (1) is made, a notification shall be published in the issue of the District Gazette immediately following, giving particulars of—

(i) the date of sale,

(ii) the lands sold,

(iii) the price for which they were sold, and

(iv) the names of the purchaser, defaulter and landholder concerned.]

Transmission of purchase money to Collector and grant of certificate of sale.

[4][**124.** (1) All moneys received by the selling officer under sub-section (1) of section 123 shall forthwith be transmitted to the Collector.

[1] The words "the expenses and the costs of the sale" were substituted for the words "costs of the sale" by section 69 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This sentence was added by *ibid.*

[3] Section 123 was substituted for the original section by section 70 *ibid.*

[4] Section 124 was substituted for the original section by section 71 *ibid.*

(2) On the expiration of forty-five days from the date of sale as specified in the notification under sub-section (3) of section 123, the Collector shall, if no application has been made to set aside the sale under section 131 or if such application has been made and rejected, grant a certificate of sale to the purchaser stating the property sold, the name of the purchaser, the date of the sale and the price at which the property was purchased and shall place him in possession of the property sold.

(3) The Collector shall also cause a copy of the certificate to be posted in the village chavadi of the village in which the lands are situated or, if there is no village chavadi, in a conspicuous place in the village. A copy of the certificate shall also be published in the District Gazette.]

Encumbrances.

125. When a holding or part of a holding is sold for arrears due in respect thereof, the purchaser shall take, subject to any right or interest which the ryot has created therein with the landholder's permission in writing registered and subject also to any encumbrances created before the passing of this Act [1][but not subject to any arrears of rent due in respect of the holding before the date of sale or to interest on such arrears, whether a decree has been obtained or not for such arrears or interest.]

Extent of holding to be brought to sale.

126. The portion of the holding brought to sale by the landholder shall be, as nearly as possible, equal in value to the amount of arrears due and costs.

Rules for disposal of sale-proceeds.

127. [2][(1) (*a*) From the proceeds of every sale of a holding or part of a holding under this Act, the Collector shall make a deduction at a rate not exceeding one anna in the rupee for poundage.

(*b*) If the landholder purchases the property and sets off any sum due to him against the purchase-money, he shall pay the amount chargeable for poundage at the rate specified in clause (*a*).

(*c*) The amount deducted or paid on account of poundage shall form part of the costs and expenses of the sale.]

[3][(2)] [4][In disposing of the balance of the proceeds of the sale] the following rules[5] [shall, subject to the provisions of sub-section (2) of section 120-A, be observed], that is to say :—

(*a*) there shall first be paid to the landholder the costs incurred by him in bringing the holding to sale ;

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[1] The words within square brackets were added by section 72 of the Madras Estates Land (Amendment) Act 1934 (Madras Act VIII of 1934).

[2] Sub-section (1) of section 127 was inserted by section 73 (1) *ibid.*

[3] Section 127 was renumbered as sub-section (2) of section 127 by *ibid.*

[4] The words "In disposing of the balance of the proceeds of the sale" were substituted for the words "In disposing of the proceeds of a sale of a holding under this chapter" by section 73 (2) (*a*) *ibid.*

[5] The words, figures and letter "shall, subject to the provisions of sub-section (2) of section 120-A, be observed" were substituted for the words "shall be observed" by *ibid.*

(*b*) there shall, in the next place, be paid to the landholder the amount due to him for arrears and interest up to date of payment;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the landholder therefrom any[1] [arrears of rent and interest due in respect of the holding between the date of the notice under section 112] and the date of the sale and the defaulter shall receive from the selling officer a receipt for the amount so paid; if the defaulter disputes the landholder's right to receive any sum under this clause, the Collector shall register the dispute as a suit and shall proceed to determine it:

Provided that no payment shall be made to the landholder under clauses (*a*), (*b*) and (*c*) [2][until after the grant of a certificate of sale under sub-section (2) of section 124.]

(*d*) the balance (if any) remaining after the payment of the amount mentioned in clause (*c*) shall, subject to the order of any Civil Court to the contrary, be paid to the defaulter on his application, after the expiration of three months from the date of the sale.

Right of person having interest in the holding on payment of amount due.

128. (1) When a proclamation has been made for the sale of a holding or part of a holding and any person having an interest therein which would be affected by the sale, pays to the Collector or the selling officer the amount requisite under section 122 to prevent the sale,—

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at six per centum per annum and charged upon the holding; and

(*b*) such charge shall take priority of every other charge on the holding, other than a charge for arrear of rent and any prior charge under this section.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

Right of tenant or sub-tenant to deduct from rent amount paid for ryot.

129. Where a proclamation has been made for the sale of a holding or part of a holding of a defaulting ryot, and any tenant or sub-tenant thereof, whose interest would be affected by the sale, pays to the Collector or to the selling officer the

1 The words and figures within square brackets were substituted for the words "rent which may have fallen due to him in respect of the holding between the date of application or suit" by section 73 (2) (*b*) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The words and figures within square brackets were substituted for the words "of this section until after the expiration of thirty days from the date of sale" by *ibid.*

amount requisite under section 122 to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord and so on, until the defaulter is reached.

130. [* * * * * * * * * *][1]

Application to set aside sale on deposit of purchase money.

[2][**131.** (1) When a ryot's holding or part thereof is sold for an arrear due thereon, the defaulting ryot, or any person having a right or interest therein affected by the sale, may apply to the Collector to have the sale set aside on his depositing with that officer—

(*a*) for payment to the Government, the amount deducted for poundage under clause (*a*) of sub-section (1) of section 127;

(*b*) for payment to the landholder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, together with subsequent costs, if any, incurred by the landholder in bringing the holding to sale, and including, where the landholder is the purchaser, the amount paid by him for poundage under clause (*b*) of sub-section (1) of section 127 less any amount which may, since the date of the proclamation of sale, have been received by the landholder; and

(*c*) for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(2) If such deposit is made the Collector shall pass an order setting aside the sale, and directing repayment of the purchase-money and the five per centum to the purchaser:

Provided that where the landholder is the purchaser, only the five per centum and the balance of the purchase-money after deducting the amount which he sets off under sub-section (2) of section 120-A shall be directed to be repaid to him as purchaser.]

Application of this chapter to execution of decrees for arrears of rent.

132. The provisions of this Chapter shall be applicable as far as may be, to the execution by a Revenue Court of any decree for arrears of rent.

Collector executing decree may grant defaulter time to pay.

133. The Collector, (*a*) in executing a decree for arrears in a suit under this Act or (*b*) on the application of the defaulter whose holding is to be sold under the provisions of this Chapter, may, before issuing an order for the sale of the holding or part thereof and on the defaulter's giving security for the amount

1 Section 130 was omitted by section 74 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 Section 131 was substituted for the original section by section 75 *ibid.*

of the debt with costs and interest to the satisfaction of the Collector, allow the defaulter time in which to pay the amount due, provided that any period or the aggregate of any periods so allowed shall not exceed two months unless the Local Government by general or special order allow a longer period.

Extension of application of provisions of this chapter.

134. The provisions contained in this Chapter for the recovery of rent from a ryot by distraint and sale of movable property shall apply, as far as may be, to—

(1) the recovery of rent by a landholder from a tenant of private land in the estate, provided [pattas][1] and [1][muchilikas] have been exchanged between them ; and

(2) the recovery of rent by a landowner under ryotwari settlement with the Government or in any way subject to the payment of land revenue direct to Government or any other registered holder of land in proprietary right from a tenant from whom he has taken a written agreement specifying the rent to be paid.

[2][The provisions contained in this Chapter for the recovery of rent from a ryot by a suit before the Collector, shall apply, as far as may be, to the recovery of rent by a landholder from a ryot holding, under a written engagement specifying the rent payable, a tree or trees apart from the land on which they stand in the same village as that in which he holds lands as a ryot.]

[3][CHAPTER VII.

Recovery of Excess Payments.

Prohibition of payments in addition to rent.

135. A landholder shall not be entitled to take, receive, or exact from his ryots, as such, under any name or under any pretence anything in addition to the rent lawfully payable. All stipulations and reservations for such additional payment shall be void.

Recovery of such payment and penalties.

136. Every ryot from whom as such, anything has been taken, received or exacted by the landholder in addition to the rent lawfully payable, shall be entitled to recover by a suit before the Collector the amount or value of what has been so taken, received or exacted, and where anything has been exacted, also such sum by way of penalty as the Collector thinks fit, not exceeding one hundred rupees or, when double such amount or value exceeds one hundred rupees, not exceeding double that amount or value.]

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[1] The words "pattas" and "muchilikas" were substituted respectively for the words "puttahs" and "muchalkas" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The second paragraph of section 134 (2) was added by section 76 *ibid.*

[3] Chapters VII and VIII were substituted for the original chapters by section 77 *ibid.*

[1][CHAPTER VIII.

IRRIGATION WORKS.

136 A. In this chapter—

(1) the 'ayacut' of an irrigation work shall mean all the lands which are entitled to irrigation under the irrigation work; 'ayacut.'

(2) 'major irrigation work' shall mean an irrigation work of which the ayacut is 200 acres or more in extent and any other irrigation work notified by the District Collector under section 136-B; and 'major irrigation work.'

(3) 'minor irrigation work' shall mean any irrigation work which is not a major irrigation work." 'minor irrigation work.'

136 B. The District Collector may, by notification in the District Gazette, declare that any irrigation work shall be deemed to be, or to be part of, a major irrigation work for the purposes of this chapter, notwithstanding that its ayacut is less than 200 acres Notification of certain works as major irrigation works.

(*a*) on the ground that the work is so situated that any railway may appear liable to be injured from the escape or overflow of water therefrom; or

(*b*) for any other special reason.

The ground or reason for every declaration under this section shall be specified in the notification.

136 C. Applications under this chapter shall be made— Applications to whom to be made.

(*a*) to the District Collector in the case of a major irrigation work, and

(*b*) to the Revenue Divisional Officer in the case of a minor irrigation work.

136 D. The officer to whom an application is made under this chapter may himself inquire into the application or depute an officer subordinate to him not below the rank of a Deputy Tahsildar to make the inquiry. The officer making the inquiry shall fix a date and the time and place at which the inquiry will take place and cause to be served on the respondent or respondents a copy of the application and a notice to show cause why the order prayed for should not issue. The notice shall also be posted in the village or villages where the land irrigated is situated and shall also be published in the manner prescribed so as to give notice to the ryots holding lands in the ayacut of the irrigation work. On the day fixed in the Inquiry on application.

1 Chapters VII and VIII were substituted for the original chapters by section 77 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

notice or, on any other date to which the inquiry may be adjourned, the officer making the inquiry shall hear the applicant or applicants, the respondent or respondents and any ryots interested who may attend, and may take evidence and make such further inquiry as he may think fit. If the inquiry is made by an officer other than the officer to whom the application is made, he shall make a report thereon to the officer to whom the application is made and shall send him the records of the enquiry ; and the officer to whom the application is made shall pass his order after considering the report and hearing the objections if any of the parties.

Determination of ayacut.

137. The landholder in whose estate an irrigation work is situated or any ryot or ryots holding land irrigable from the irrigation work may apply for an order determining what lands are or should be included in the ayacut of such irrigation work. On inquiry or report under section 136 D, the officer to whom the application is made shall pass an order—

(*a*) determining what lands are or should be included in the ayacut of such irrigation work, and

(*b*) classifying any such lands as 'irrigated' or 'garden' if they are not already so classified, and

(*c*) determining the rate of rent to be paid on the lands so classified.

Sanction to extend ayacut.

137 A. Where the ayacut of an irrigation work in an estate has been determined by an order passed under section 137 or in a record of rights published under Chapter XI, the landholder of the estate may apply for sanction to extend such ayacut by the inclusion in it of the land or lands mentioned in the application. On inquiry or report under section 136 D the officer to whom the application is made may pass an order—

(*a*) sanctioning the extension of the ayacut by the inclusion of such lands mentioned in the application as he finds can be included in the ayacut without prejudice to the irrigation in the customary manner of the lands already included in the ayacut, and

(*b*) reclassifying the land newly included in the ayacut under clause (*a*) as 'irrigated' or 'garden' and

(*c*) determining the rate of rent to be paid on lands so reclassified.

Prohibition of unauthorized extension of ayacut.

137 B. Where the ayacut of an irrigation work in an estate has been determined by an order passed under section 137 or by a record of rights published under Chapter XI, the landholder shall not be entitled to extend such ayacut except in pursuance of an order under section 137 A.

Reclassification of irrigated or garden land as unirrigated

137 C. Any ryot holding land under a landholder as irrigated or garden land in the ayacut of an irrigation work, may apply for an order for the reclassification of such land as unirrigated land, on the ground that it has not been possible for a period of not less than six consecutive years immediately prior to the date of application, to irrigate such land from such irrigation work. If on inquiry or report under section 136 D the officer to whom the application is made finds that it has not been possible for a period of not less than six consecutive years immediately prior to the date of application, to irrigate such land or any portion of it from the irrigation work in the ayacut of which it is included, he may pass an order reclassifying such land or portion as unirrigated and determining the rate of rent to be paid on the land or portion so reclassified.

Determination of rate of rent on reclassified lands.

137 D. (1) In determining the rate of rent under clause (*c*) of section 137, clause (*c*) of section 137 A or section 137 C, the officer to whom the application is made shall have due regard to the rate of rent for similar lands, if any, with similar advantages in the neighbourhood.

(2) Nothing contained in Chapters III and XI shall be deemed to affect the powers of the said officer to determine the rates of rent under any of the provisions referred to in sub-section (1).

Application for repair of irrigation work.

138. Any ryot or ryots holding land under a landholder in the ayacut of an irrigation work, and

(*a*) paying not less than one-fourth of the rent of the ayacut, or

(*b*) holding not less than one-fourth of the extent of the ayacut, or

(*c*) depositing such amount not exceeding two hundred rupees in the case of a major irrigation work and one hundred rupees in the case of a minor irrigation work as may be demanded by way of security

may apply for the issue of an order for the repair of the work if the work is in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it and if the landholder upon his or their application has refused or neglected to execute the necessary repairs. The application shall state in sufficient detail the facts on which the claim of the applicant or applicants is based and the general nature of the defects in the irrigation work. Any ryot or ryots intending to file an application under this section and any person or persons authorized by him or them shall have free access to the irrigation work concerned to enable him or them to state these facts and the general nature of these defects.

Explanation.—Repairs shall not include petty works such as yearly clearance of supply and distribution channels or minor repairs which the ryots are by law or custom bound to carry out.

Inquiry and order on such application.

139. (1) (*a*) If on inquiry or report under section 136 D, the officer to whom the application is made is satisfied—

(i) that the irrigation work is in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it; and

(ii) that the state of disrepair is not due exclusively to the wrongful acts of the ryots or to omission to make such petty works or minor repairs as the ryots are by law or custom bound to carry out,

he may pass an order specifying the works necessary for the restoration of the irrigation work to efficiency and the estimated cost of the same and requiring the landholder to execute the said works within a specified time which may be extended from time to time by the officer. In passing an order specifying or extending the time, the officer shall consider any representations made by the ryot or ryots who made the application and pay due regard to the capacity of the estate of such landholder to bear within such time, the cost of such works in addition to the cost of other works, if any, ordered by such officer or by any other officer to be executed by such landholder or undertaken by such landholder of his own accord.

(*b*) If on such inquiry or report, the officer to whom the application is made is satisfied—

(i) that the irrigation work is not in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it; or

(ii) that the state of disrepair is due exclusively to the wrongful acts of the ryots or to omission to make such petty works or minor repairs as the ryots are by law or custom bound to carry out,

he shall dismiss the application.

(2) (*a*) The costs incurred by the applicant or applicants or by the landholder in connexion with the application, shall be in the discretion of the officer to whom the application is made and he shall have full power to determine by whom and to what extent such costs are to be paid:

Provided that the amount awarded as costs shall be reasonable and that the amount awarded to the landholder shall in no case exceed two hundred rupees in the case of a major irrigation work and one hundred rupees in the case of a minor irrigation work.

(*b*) Where any security has been deposited under section 138 the officer aforesaid may, if he awards costs to the landholder under clause (*a*), pay such costs out of the amount of such security and where such officer is satisfied

that the application was frivolous, he may also declare the whole or part of the balance, if any, of the said amount to be forfeited to the Government.

(3) An order passed under clause (*a*) of sub-section (1) shall declare that, if the landholder refuses or within the time specified in such order as extended from time to time under that clause, fails to execute the works, he shall deposit the amount of the estimated cost within a time to be specified in that behalf. If the landholder fails to make the deposit within the time so specified or within such further time as may be allowed, the officer passing the order shall recover the same from the landholder as if it were an arrear of land revenue.

(4) On the estimated cost being deposited or recovered as aforesaid, the officer shall get the works executed as soon as may be by such persons and in such manner as he may direct and meet the cost of such works from the amount deposited or recovered as aforesaid.

(5) If the amount of the estimated cost deposited by or recovered from the landholder as aforesaid is found insufficient for the completion of the works, the officer may require the landholder to deposit such further sum as may be necessary for the purpose within a specified time and failing such deposit shall recover the same as if it were an arrear of land revenue and the amount so deposited or recovered shall be utilized by the officer for meeting the cost of the works.

(6) If the amount deposited or recovered from the landholder under this section exceeds the cost of the works, such excess shall be refunded to him.

Explanation.—For the purposes of this section, the cost of any works shall include the cost, if any, of the inspection of the same after completion.

Liability of dasabandam inamdar.

140. (1) Where the default to maintain the irrigation work in good repair is that of a holder of a dasabandam inam granted prior to the permanent settlement and confirmed but not enfranchised by the British Government, the holder of the estate served by the irrigation work shall be entitled to call on the holder of the dasabandam inam to execute the works specified in the order passed under clause (*a*) of sub-section (1) of section 139 to pay for their execution and on his default to do either such holder of the estate may execute the said works as directed in the order and recover the cost of the same from the dasabandam inamdar by suit before the Collector. The amount of the decree may be recovered as if it were an arrear of rent.

(2) Nothing contained in sub-section (1) shall be deemed to affect the right of such holder of the estate to resume such inam for proper cause.

Temporary reduction of rent pending completion of works of repair.

141. At the time of passing an order under clause (*a*) of sub-section (1) of section 139 or at any time subsequent thereto, the officer passing the order may, on the application of any ryot or ryots holding land in the ayacut of the irrigation work in respect of which such order is passed, direct such temporary reduction of rent as he thinks fair and equitable until the works specified in such order have been completed.

Irrigation works serving partly an estate and partly Government land.

142. (1) If the irrigation work serves partly an estate and partly Government land, the repair as aforesaid shall invariably be executed by the District Collector, and after notice to the landholder giving him an opportunity to examine the stated cost of the repair and urge his objection thereto, if any, the charges incurred shall be divided between the Government and the landholder in proportion to the extent of land belonging to Government which is registered as entitled to irrigation from the work and the extent of land belonging to the landholder for which he is entitled free of separate charge to irrigation from the work. The portion due by the landholder shall be recoverable as an arrear of land revenue.

(2) Nothing in sub-section (1) shall apply to irrigation works belonging to the Government, which the Government are bound to maintain, and from which the landholder is entitled to a supply of water free of charge.

(3) A landholder who is dissatisfied with an order of the District Collector under this section may sue in a Civil Court to have it set aside or modified on either of the following grounds :—

(*a*) that he is under no obligation to repair the irrigation work concerned ;

(*b*) that the proportion of the charge which he is liable to pay under sub-section (1) has been wrongly calculated.

If the order is set aside or modified, the court shall direct the refund of any amount found to have been improperly levied.

Irrigation works serving more than one estate.

143. (1) The provisions of this Chapter shall apply, so far as may be, to an irrigation work serving more than one estate.

(2) Where an irrigation work serves more than one estate the Local Government may make rules for—

(*a*) regulating the procedure to be adopted ;

(*b*) determining and adjusting the rights and liabilities of the landholders and the ryots concerned ; and

(*c*) providing for the recovery of the cost of carrying out the repairs.

144. No Civil Court shall issue an injunction or save as provided under section 142 entertain a suit regarding the proceedings of a District Collector or Revenue Divisional Officer under this chapter.] Bar on jurisdiction of civil courts.

CHAPTER IX.

Subdivision and Transfer of Holdings and Estates.

[1] [**145.** (1) Whenever a holding or any portion thereof is transferred or whenever the same devolves by operation of law, the landholder shall, subject to the provisions of this section, be bound to recognize such transfer or devolution and enter into a fresh engagement or engagements as hereinafter provided. Recognition of transfer or devolution of holding or portion of a holding.

(2) Where a holding or any portion thereof is transferred by the act of a ryot, the landholder on receiving notice thereof in writing from the transferor and the transferee shall recognize the transfer.

Any person presenting for registration any document transferring a holding or any portion thereof shall present therewith a notice in writing signed by the transferor and transferee, and addressed to the landholder asking for recognition of the transfer, and shall also pay to the registering officer such fee as the Local Government may prescribe for the transmission of such notice to the landholder. The landholder shall recognize the transfer on receipt of the said notice.

(3) Where there is a binding adjudication as to the fact and validity of a transfer of a holding or any portion thereof in any proceeding before a Civil or Revenue Court to which both the transferor and the transferee are parties, the landholder shall, on the production of a certified copy of the judgment, decree or order in such proceeding, be bound to recognize such transfer.

(4) Where a holding or any portion thereof is transferred in pursuance of a decree or order of a Civil Court, or by a sale for arrears of rent, or for arrears of Government revenue, or for any demand recoverable as arrears of Government revenue or as arrears of rent, such transfer shall be recognized by the landholder on production of a certified copy of the decree or order establishing the transfer, or in cases in which the transfer is effected by sale under the order of any Court or public officer, on production of the sale certificate or a certified copy thereof.

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[1] Section 145 was substituted for the original sections 145 and 146 by section 78 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(5) Where a holding or any portion thereof devolves by operation of law, the landholder on receiving notice thereof in writing from the person on whom the holding has devolved shall recognize the devolution.

(6) (*a*) Where either the transferor or the transferee fails to join the other in applying to the landholder for recognition of the transfer, the transferee or the transferor, or where any dispute arises as to the person or persons on whom the holding or portion thereof has devolved, any person claiming by devolution the holding or portion, may apply to the Collector for an order certifying the transfer or the devolution as the case may be.

(*b*) The Collector, after giving notice to the transferor or transferee or other persons interested and after making such inquiry as he thinks fit as to the fact and validity of the transfer or as to the person or persons on whom the holding or portion has devolved, may pass an order certifying the transfer or devolution as the case may be. On production of a certified copy of such order the landholder shall be bound to recognize the transfer or the devolution.

(*c*) Nothing in this sub-section shall bar any suit in a Civil Court for establishing or setting aside any transfer or for enforcing any claim based on a devolution by operation of law.

(7) Where the landholder has recognized the transfer or devolution of any holding or portion thereof under the foregoing provisions of this section—

(i) in case the transfer or devolution is of the entire holding, the landholder shall be bound to enter into a separate engagement with the transferee or the person on whom the holding devolves, or if there is more than one such transferee or person, into a joint engagement with such transferees or persons ;

(ii) in case the transfer or devolution is of a portion of the holding and the portion is not defined by metes and bounds, the landholder shall be bound to enter into a joint engagement with the transferor and the transferee and the other co-sharers, if any, or with the person or persons on whom the portion of the holding devolves and the other co-sharers, if any :

Provided that if the transferor has ceased to possess any interest in the holding, his name may with his consent be omitted from such engagement.

(iii) in case the transfer or devolution is of a portion of the holding and the portion is defined by metes

and bounds the landholder shall be bound to enter into separate engagements with the holders of the subdivisions :

Provided that the landholder shall not be bound to enter into such engagements unless each of the subdivisions conforms to the rules made by the Local Government in that behalf.

(8) In any case falling under the proviso to clause (iii) of sub-section (7), where the landholder does not enter into separate engagements with the holders of the subdivisions, he shall be bound to enter into an engagement with them jointly.

(9) The distribution of rent between the subdivisions referred to in clause (iii) of sub-section (7) shall be made in the first instance by the landholder.

If the distribution of rents be delayed for over six months or is not assented to by any of the parties concerned, the Collector shall on application by any such party make such distribution and the same shall be binding on the landholder and on all the other parties concerned.

(10) The transfer of a holding or the recognition thereof by the landholder shall in no way affect the charge on the holding or the lands comprised therein for the rent which accrued due thereon prior to the date of the transfer or its or their liability therefor.

(11) The provisions of this section shall apply to the partition of a holding among the co-sharers as if it were a transfer.]

146. [* * * * * * * * * * * *].[1]

Proceedings against transferor or co-sharer prior to notice to be valid against transferee or co-sharer.

147. (1) All acts and proceedings commenced or had under this Act against the transferor or the co-sharers [2] [prior to—

(*a*) the giving of the notice under sub-section (2) of section 145, or

(*b*) the production of the certified copy of the judgment, decree or order under sub-section (3) of that section, or

(*c*) the production of the certified copy of the decree or order or the sale certificate or certified copy thereof under sub-section (4) of that section, or

(*d*) the production of a certified copy of the order under sub-section (6) of that section

1 See footnote to section 145.

2 The words, figures and letters within square brackets in section 147 (1) were substituted for the words and figures "prior to the giving of notice under section 146 or prior to the production of such copy of the decree or order or certificate of sale under section 146 in so far as" by section 79 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

in so far as] such acts and proceedings affect or purport to affect the land on which the arrear is due, the crops growing thereon and the products gathered therefrom, shall as against the transferee or co-sharer be as valid and effectual as if such acts and proceedings had been commenced or had against the transferee or co-sharer himself, and he had been the defaulter.

(2) [1] [Any notice required under section 145 may also be served] in the manner provided by sub-section (2) of section 78.

(3) The transferor or co-sharer shall not, until notice is given in writing as aforesaid [2] [or until the document referred to in clauses (*b*), (*c*) or (*d*) of sub-section (1), as the case may be, is produced] by reason only of the transfer or division, cease to be subject to any of the liabilities attaching to him as a ryot.

Notice of transfer or partition by landholder and transferee or co-sharer.

148. When any landholder transfers the whole or a portion of his estate or land, or when any estate or land is partitioned among co-sharers, the landholder and the transferee or the co-sharer, as the case may be, shall give notice of such transfer or partition, by publication in the District Gazette and in such other manner as the Local Government may by rule direct, to the ryots as the case may be in occupation of the land transferred or partitioned, and, unless and until such notice is given, no ryot shall be liable to the transferee or co-sharer for any rent which became due after the transfer or partition and was paid to the landholder before notice of such transfer or partition was given to the ryot, and all proceedings against the landholder taken by any of the ryots to whom no such notice was given shall be as effectual and binding on the transferee or co-sharer as if they had been taken in the first instance against the transferee or co-sharer himself.

CHAPTER X.

Relinquishment and Ejectment.

Relinquishment of holding by ryot.

149. (1) Every ryot [* * * * * *] [3] may, with effect from the end of any revenue year, relinquish [4] [by a notice in writing signed by him] his holding or any part

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[1] The words and figures in square bracket swere substituted for the words and figures "The notice required under section 146 shall be served" by section 79 (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words, letters and figure in square brackets were inserted by section 79 (iii) *ibid.*

[3] The words "other than a ryot of old waste bound by a lease or other written agreement for a fixed period" were omitted by section 80 (i) *ibid.*

[4] The words within square brackets in section 149 (1) were inserted by section 80 (ii) *ibid.*

thereof, not being less than a revenue field, provided that the portion relinquished is accessible, and provided that the apportionment of the rent on the part retained shall be made by the landholder subject to revision by the Collector on application by the ryot. The portion retained shall be treated as a new holding and a fresh [1][patta] and [1][muchilika] shall be exchanged in respect of the same for the revenue year next succeeding that in which notice of relinquishment is given.

(2) A ryot who so relinquishes his holding or part of his holding shall be liable at the suit of the landholder before the Collector to indemnify him against any loss of rent on the holding or the part thereof for the revenue year next following the date of the relinquishment, unless the ryot gives to the landholder on or before the first day of April notice of his intention to relinquish.

Application to Collector for service of notice.

150. (1) If the landholder refuses to receive any notice under sub-section (2) of section 149, the ryot may, not later than the fifteenth day of April, make an application to [2] [the Collector] who shall thereupon cause the notice to be served on such landholder, the ryot paying the costs of service.

(2) Every such notice shall be deemed to have been received at the time it was first tendered.

Suit for ejectment.

151. (1) A landholder may institute a suit before the Collector to eject [3] [a ryot] from his holding only on the ground that the ryot has materially impaired the value of the holding for agricultural purposes and rendered it substantially unfit for such purposes.

(2) Notwithstanding anything contained in this section a landholder may sue before the Collector for compensation in addition to, or in lieu of, ejectment ; or for an injunction, or for the repair of the damage or waste, with or without compensation.

Decree where damage is repairable or pecuniary compensation would be adequate relief.

152. If in any suit under the preceding section [3][a ryot] is found liable to ejectment, but it appears that the damage to the holding admits of being repaired, or that pecuniary compensation would afford adequate relief, the decree shall provide that, if within one month from the date thereof or such further time as the Collector for reasons to be recorded

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[1] The words "patta" and muchilika" were substituted respectively for the words "puttah" and "muchalka" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "the Collector" were substituted for the words "a Revenue-officer" by section 3 (2) *ibid.*

[3] The words "a ryot" were substituted for the words "an occupancy ryot" by section 81 *ibid.*

may allow, the ryot does not repair the damage or pay as compensation a sum which shall be fixed by the Collector and specified in the decree, he shall be ejected.

153. [1][* * * * * * * * * *]

154. [1][* * * * * * * * * *]

Right of ejected ryot in respect of crops and land prepared for sowing.

155. The following rules shall be applicable in the case of every ryot ejected from a holding :—

(1) When the ryot has, before the date of his ejectment sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landholder, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landholder the estimated value of the labour and capital expended by the ryot in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the ryot has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landholder the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon :

Provided that a ryot shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landholder for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided also that the rent, if any, payable to the landholder by the ryot at the time of ejectment may be set off against any sums payable to the ryot under this section.

Payment by ryot for occupation of land under preceding section.

156. When a landholder elects, under clause (1) of the last foregoing section, to allow a ryot to retain possession of any land for the purpose specified in that clause, the ryot shall pay to the landholder, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, rent at the rate at which the ryot was holding.

157. [2][* * * * * *]

Eviction of Tenants [and Ejectment of Trespassers.][3]

Eviction of tenant under Collector's warrant.

158. When any tenant of private land in an estate shall be in arrear at the end of a revenue year and when there is no sufficient distress upon the premises to satisfy the

[1] Sections 153 and 154 were omitted by section 82 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 157 was omitted by section 83 *ibid.*

[3] The words within square brackets in the heading to section 158 were inserted by section 84 *ibid.*

arrear, the landholder or his authorized agent may apply to the Collector for a warrant authorizing him to enter upon and take possession of the premises. Such warrant shall be granted upon the production of a written statement of the person applying for the warrant, which statement shall contain the name of the defaulter, the description and extent of the premises, the amount due for arrears, interest and costs of distraint, if any, and the date at which the arrear fell due, and also a declaration that there is no sufficient distress upon the premises. Such statement shall be filed in the office from which the warrant issues.

Contents of warrant.

159. The warrant shall state the defaulter's name, the whole amount due and the description and extent of the premises, and shall set forth that, unless payment is made within fifteen days the defaulter will be turned out of possession. The Collector may, for special reasons, extend the period of fifteen days mentioned in this section.

Execution of warrant.

160. The warrant shall be entrusted to an officer of police, who shall serve it after the manner laid down in sub-section (2) of section 78. If within fifteen days after service, or within the period extended by the Collector under the last foregoing section, the amount named in the warrent is not discharged and [1][if no application has been made by the defaulter to the Collector] to set aside the warrant, or if [1] [such application] has been decided against the defaulter, the police officer shall place the landholder in possession.

Determination of tenancy.

161. Where possession has been delivered under the last preceeding section, the defaulter may file a suit in a Civil Court within three months from the date of delivery for an order to set aside the proceedings and to restore him to possession, and subject to the result of such suit, if any, the defaulter's right and interest in the premises shall cease and determine.

Saving clause.

162. Nothing in sections 158 and 161 shall apply to any land in which the tenant has a saleable interest.

Rates of rent and damages payable for unauthorized occupation of ryoti land.

[2] [**163.** A person who unauthorizedly occupies for agricultural purposes ryoti land which at the time of the occupation is not held by any ryot, shall be liable to pay for each revenue year or portion thereof the rent fixed for that land or, if no rent has been fixed, such sum as the Collector may, on application, determine to be fair and equitable.

He shall also be liable to pay, as damages for the unauthorized occupation such sum not exceeding one year's rent as so

[1] The words "if no application has been made by the defaulter to the Collector" were substituted for the words "if no suit has been filed by the defaulter before the Collector" and the words "such application" were substituted for the words "such suit" by section 85 of the Madras Estates (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sections 163 and 163 A were substituted for the original section 163 by section 86 *ibid.*

fixed or determined, as the Collector may on application award, and the landholder may recover all sums due under this section as if they were arrears of rent.]

Ejectment of trespasser.

[1][**163 A.** (1) (*a*) Any person who otherwise than by inheritance or legal transfer occupies ryoti land in an estate and has not been admitted as a ryot by the landholder or is not deemed to have been admitted as a ryot under the provisions of Explanation (2) to sub-section (1) of section 6 shall be liable to ejectment as a trespasser by suit in a Civil Court.

(*b*) Such suit shall be instituted within twelve years from the date of commencement of the occupation.

(*c*) It shall not be open to the defendant in such suit to set up the plea that he has, since the institution of the suit, acquired the status of a ryot by virtue of the Explanation to clause (15) of section 3.

(2) In any suit for ejectment under this section, the landholder shall also be entitled to mesne profits and damages for unauthorized occupation which shall be assessed at the rates fixed under section 163 or if there are no such rates at the rates which the Court may determine in accordance with the provision contained in section 163 :

Provided that where the landholder has received rent for any year, he shall not be entitled to any further damages for unauthorized occupation for that year.]

CHAPTER XI.

SURVEY, RECORD-OF-RIGHTS, AND SETTLEMENT OF RENTS.

Power of Local Government to order survey and record-of-rights.

164. (1) The Local Government may make an order directing that a survey be made and a record-of-rights be prepared by [2][the Collector] in respect of an estate or portion of an estate, in the following cases, namely :—

(*a*) where—

(i) the landholder or ryots, or

(ii) not less than one-half of the total number of landholders, or

(iii) a landholder or a proportion of the landholders whose interest or the aggregate of whose interests, respectively, in the estate or portion thereof is not less in value than one-half of the total shares of all the landholders therein, or

(iv) not less than one-fourth of the total number of ryots—

applies or apply for such an order, depositing on giving security for such amount for the payment of expenses as the Local Government direct ;

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[1] See foot-note No. 2 on the previous page.

[2] The words "the Collector" were substituted for the words "a Revenue officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(*b*) where in the opinion of the Local Government the preparation of such a record is required to secure either the ryots generally or the landholder of an estate or portion of an estate in the enjoyment as such of their or his legal rights or is calculated to settle or avert a serious dispute existing or likely to arise between the ryots generally and their landholder ; or

(*c*) where the estate is an estate managed by the Government or is under the superintendence of the Court of Wards.

(2) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

[1][(3) The survey shall be made under the Madras Survey and Boundaries Act, 1923, and the record-of-rights shall be prepared in accordance with the rules prescribed by the Local Government and may, if the Local Government so direct, include Madras Act VIII of 1923.

(*a*) a record of all rights and obligations of each ryot and landholder in respect of—

(i) the use by the ryots of water for agricultural purposes whether obtained from a tank, well or any other source of supply ; and

(ii) the repair and maintenance of works for securing a supply of water for the cultivation of the land held by each ryot whether or not such works be situated within the boundaries of such land ; and

(*b*) a record of any special rights which by law or by custom, the ryots may have in the waste land of the estate.

(4) Certified copies of the survey plan, survey land register and field measurement sheets relating to any village or the area therein which has been surveyed shall be furnished to the karnam of the village and shall be available for inspection by the ryots thereof.]

[2][*Explanation.*—In the case of an estate already surveyed which or a portion of which is taken up for the preparation of a record-of-rights under this section the survey required by this section may be limited to what is necessary for the preparation of a record-of-rights.]

165. When an order is made under the last foregoing section, the particulars to be recorded shall be specified in the Particulars to be recorded.

1 Sub-sections (3) and (4) were substituted for the original sub-section (3) by section 87 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The explantion was added by section 87 (2) *ibid.*

order and shall include, either without or in addition to other particulars, some or all of the following, namely :—

(*a*) the name of each ryot's landholder and of each landholder in the estate or portion thereof ;

(*b*) the name of the ryot, [1][* * * * *] or where there is no ryot, the name of the occupant ;

(*c*) the situation extent and one or more of the boundaries of the land held by the ryot, as shown in the survey map of the village ;

(*d*) whether the land is irrigated, unirrigated, or garden land and, if irrigated, whether double or single crop ;

(*e*) the rent lawfully payable at the time the record is being prepared and whether the ryot is entitled to the benefit of proviso (*a*) to clause (i) of section 30 ;

(*f*) how the rent has been fixed, whether by decree or under the provisions of this Act or otherwise ;

(*g*) any rights lawfullly incident to the holding ;

(*h*) if the rent is gradually increasing rent, the times at which and steps by which it increases ;

(*i*) if the land is claimed to be held free of rent, whether rent is actually paid or not ; and when rent is not paid, whether the occupant is entitled to hold the land without such payment and if so entitled, on what authority ; and the rent payable, if the land were liable to rent ;

(*j*) the record of irrigation rights ordered under sub-section (3) of section 164 [2][and the record of special rights in the waste land ordered under the same sub-section].

Publication of preliminary record and entertainment of objections thereto.

166. (1) When the [Collector][3] has, after making such inquiry as he sees fit, completed a preliminary record for the estate or part of the estate, he shall publish a draft thereof in the prescribed manner and for the prescribed period, and shall receive and consider any objection to any entry therein or to any omission therefrom, which may be made during the period of publication.

Publication of final record.

(2) When such objections have been considered and disposed of according to such rules as the Local Government shall prescribe, the [4][Collector] shall finally frame the record,

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[1] The words " and whether the ryot is an occupancy or a non-occupancy ryot " were omitted by section 88 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were added by section 88 (ii) *ibid.*

[3] The word " Collector " was substituted for the words " Officer preparing the record of rights " by section 3 (2) *ibid.*

[4] The word " Collector " was substituted for the words " Officer aforesaid " by *ibid.*

and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

[1][(2-A) The Collector shall, along with the final record, cause to be published the name or official designation of the person to whom and the date on or before which the Local Government direct that applications for settlement of rent under sub-section (1) of section 168 should be made.

Any date fixed by the Local Government under this sub-section shall not be earlier than six months from the date of publication of the final record.

(2-B) A certified copy of the final record-of-rights relating to any village or the area therein for which such record-of-rights has been prepared as well as of all amendments thereto made under the provisions of this chapter shall be furnished to the karnam of such village and shall be available for inspection by the ryots thereof.]

(3) Separate draft or final records may be published [2][and separate dates fixed] under this section for different portions of the estate.

Presumption as to final publication and correctness of record-of-rights.

167. (1) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom is produced, such record-of-rights shall be presumed to have been finally published, unless this is expressly denied, and a certificate signed [3][by the Collector or by the District Collector] of any district in which the estate or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The Local Government may, by notification, declare with regard to any estate or portion of an estate that a record-of-rights has been finally published for every village included therein and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until the contrary is proved.

Settlement of rents.

168. (1) [4][If on or before the date fixed under sub-section (2-A) of section 166 in respect of any village or any area for which a record-of-rights is published where such area is less

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[1] Sub-sections (2-A) and (2-B) were inserted by section 89 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were inserted by section 89 (ii) *ibid.*

[3] The words " by the Collector or by the District Collector " were substituted for the words " by the Revenue-Officer or by the Collector " by section 3 (2) *ibid.*

[4] The words and figures within square brackets were substituted for the words and figures " If within two months from the date of final publication of the record-of-rights under sub-section 2 of section 166 " by section 90 (1) (i) *ibid.*

than a village or within such further period, if any, as the Local Government may, in their discretion, from time to time, think fit to allow][1] either the landholder or the ryots apply for a settlement of the rent, provided that in the case of ryots the application is made by [holders of not less than one-eighth][2] of the total extent of the [holdings in such village or area,][3] the [Collector][4] shall, if the Local Government so direct, settle a fair and equitable rent in respect of the land [situated in such village or area.][5]

Explanation.—A landholder may apply for a settlement of rent notwithstanding that his estate or part thereof has been temporarily leased.

[6][(1-A) Notwithstanding anything contained in sub-section (1), the Local Government may at any time direct the Collector to settle a fair and equitable rent in respect of the land situated in any village or area for which a final record-of-rights has been published separately under section 166.]

(2) In settling rents under this section, the [Collector][7] shall presume until the contrary is proved that the existing rent or rate of rent is fair and equitable and shall have regard to the provisions of this Act for determining the rates of rent payable by a ryot.

(3) The [4][Collector] may in any case under this section propose to the parties such rent or rate of rent as he considers fair and equitable; and the rent so proposed, if accepted orally or in writing by the parties, may be recorded as the fair and equitable rent and shall be deemed to have been duly settled under this Act.

(4) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the rent, the [Collector][4] shall satisfy himself that the amount agreed upon is fair and equitable, and if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (2) and (3).

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1 The words and figures beginning with "If on or before" and ending with "allow" in section 168 (1) were substituted for the words and figures "If within two months from the date of the final publication of the record-of-rights under sub-section (2) of section 166" by section 90 (1) (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 The words "holders of not less than one-eighth" were substituted for the words "holders of not less than one-fourth" by section 90 (1) (ii) *ibid.*

3 The words "holdings in such village or area" were substituted for the words "holdings in the village" by section 90 (iii) *ibid.*

4 The word "Collector" in sub-sections (1), (3) and (4) of section 168 was substituted for the word "Revenue Officer" by section 3 (1) *ibid.*

5 The words "situated in such village or area" were added by section 90 (1) (iv) *ibid.*

6 Sub-section (1-A) of section 168 was inserted by section 90 (2) *ibid.*

7 The word "Collector" was substituted for the word "Officer" by section 3 (2) *ibid.*

Preliminary publication and amendment of Settlement record.

169. (1) When a settlement has been completed under section 168, the [1][Collector] shall cause a record thereof to be made showing the name of the landholder and the ryot, the extent of the holding and such other particulars as the Local Government may direct and the amount of the rent settled therefor and shall cause a copy thereof to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry in such record or omission therefrom, during the period of publication, and shall dispose of such objections according to such rules as the Local Government may prescribe.

(2) The [Collector][1] may, of his own motion or on the application of any party aggrieved, at any time before the settlement record is submitted to the confirming authority under section 170, revise any rent entered therein :

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Final revision of settlement record and incorporation of the same in record-of-rights.

170. (1) When all objections have been disposed of under section 169, the [1][Collector] shall submit the settlement record to the confirming authority appointed by the Local Government with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the settlement with or without amendment, or may return it for revision. [The confirming authority shall have power to modify any order passed by the Collector on any objection made under section 169 :]

Provided that no entry shall be amended, or omission supplied until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After it has been sanctioned by the confirming authority, the settlement record shall be incorporated in the record-of-rights published under sub-section (2) of section 166, and the record-of-rights as so amended shall be finally republished in the prescribed manner and such publication shall be conclusive evidence that the record has been duly made.

Appeal to superior Revenue authority.

[3][**171.** An appeal, if presented within three months from the date of the final republication of the record-of-rights under sub-section (3) of section 170, shall lie from every order passed

[1] The word " Collector " was substituted for the word " Revenue Officer " by section 3 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The sentence within square brackets was added by section 91 *ibid.*

[3] Section 171 was substituted for the original section by section 92 *ibid.*

by a Collector on any objection made under section 169, with such modification, if any, as may be made therein by the confirming authority under sub-section (2) of section 170 and such appeal shall lie to such superior Revenue authority as the Local Government may, by rule, prescribe or to an officer specially empowered by the Local Government in this behalf.]

Revision by Board of Revenue.

[1][**172.** The Board of Revenue may, in any case on application or of its own motion, direct the revision of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the final publication under sub-section (2) of section 166, or if there has been a settlement of rent under section 168, within two years from the date of republication under sub-section (3) of section 170, but not so as to affect any order passed by a Civil Court under section 173 :

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

Explanation.—"The Board of Revenue" in this section shall mean the collective Board if one member of the Board has already heard an appeal under section 171.]

Entries in settlement record when open to question by civil suit.

173. (1) Any person aggrieved by an entry in a settlement record prepared under sections 168 to 171 and incorporated in a record-of-rights finally published under sub-section (3) of section 170 or by an omission to settle a rent, may institute a suit in the Civil Court [2][for the relief he claims].

(2) Such suit must be instituted within six months from the date of the final publication of the record-of-rights under sub-section (3) of section 170, or, if an appeal has been presented to a Revenue authority under section 171, then within six months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely :

(*a*) that the relation of landholder and ryot does or does not exist ;

(*b*) that the land is not liable to the payment of rent ;

(*c*) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent ;

(*d*) that any entry made under clauses (*d*), (*e*) and (*j*) of section 165 is incorrect ;

(*e*) that special conditions in respect of holding at a favourable rate have been wrongly recorded or omitted ;

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[1] Section 172 was substituted for the original section by section 93 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were substituted for the words "which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made" by section 94 (i) *ibid.*

(*f*) that the [1][Collector] has wrongly fixed the date from which the operation of the settled rent under the provisions of section 177 should take effect.

The Secretary of State for India in Council shall not be made a defendant in any such suit.

[2][(4) The court shall notify its decree to the District Collector.]

Entry of note of decisions under sections 171 and 173 in record-of-rights.

174. A note of all decisions on appeal under section 171 and of all [* * * *] [3] decrees of a Civil Court notified to the [District][4] Collector under [sub-section (4)][5] of section 173 shall be made in the record-of-rights with which the settlement record has been incorporated under section 170 and such note shall be considered as part of the record.

Correction of clerical and accidental mistakes.

[6][**175.** Any Collector specially empowered by the Local Government in this behalf may, on application or of his own motion, correct a clerical or arithmetical mistake in any record-of-rights or any error arising therein from any accidental slip or omission :

Provided that no such correction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.]

Presumption as to correctness of rents settled under sections 168 to 170.

[7][**176.** Subject to the provisions of sections 171 to 175, all rents settled under sections 168 to 170 and entered in a record-of-rights finally published under sub-section (3) of section 170, shall be deemed to have been correctly settled and to be fair and equitable rent within the meaning of this Act.]

Time from which settlement of rent is to take effect and limitation of period of enhancement.

177. When any rent is settled under this Chapter the settlement shall take effect from the beginning of the revenue year next after the date of [8][the sanction by the confirming authority under sub-section (2) of section 170] and shall not thereafter be enhanced for a period of twenty years except on the grounds specified in clauses (ii) and (iii) of section 30 or of a subsequent alteration in the area of the holding nor reduced within the said period save on the ground of alteration in the area of the holding or on the ground specified in clauses (*a*) and (*b*) of sub-section (1) of section 38 :

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[1] The word "Collector" was substituted for the word "Revenue Officer" by section 3 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The original sub-section (4) of section 173 was omitted and sub-section (5) of section 173 was renumbered as sub-section (4) by section 94 (ii) *ibid*, and for sub-section (4) as renumbered the new sub-section was substituted by section 94 (iii) *ibid*.

[3] The words "orders or" were omitted by section 95 *ibid*.

[4] The word "District" was inserted by *ibid*.

[5] The word and figure "sub-section (4)" were substituted for the word and figure "sub-section (5)" by *ibid*.

[6] Section 175 was substituted for the original section by section 96 *ibid*.

[7] Section 176 was substituted for the original section by section 97 *ibid*.

[8] The words and figures within square brackets were substituted for the words "the final order or decision fixing the rent" by section 98 *ibid*.

[1][Provided that the settlement shall take effect in respect of all holdings in a single village or where the area in respect of which the settlement is effected is less than a village in respect of all holdings in such area in the same revenue year.

Provided further that nothing in this section shall be deemed to apply to an enhancement or reduction of rent ordered under sections 171, 172, 173 or 175.]

Stay of proceedings during preparation of record-of-rights.

178. (1) When an application has been made under section 168, no [suit, application or proceeding][2] shall be commenced or continued in any Civil or Revenue Court under sections 30, 38 and 40 until after the final publication of the record-of-rights under sub-section (3) of section 170.

(2) When an order has been made under section 164 directing the preparation of a record-of-rights, no Civil or Revenue Court shall entertain or proceed with any suit or application for the alteration of the rent in the area to which the record-of-rights applies until after the final publication of such record-of-rights.

Limitation of jurisdiction of Civil Courts in matters other than rent relating to the record-of-rights.

179. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter, or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 173, for the alteration of any entry in such a record of a rent settled under sections 168 to 172 :

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under sub-section (1) of section 164, which concerns [his right,][3] may institute a suit for declaration of his right under Chapter VI of the Specific Relief Act, 1877. I of 1877.

Apportionment of expenses.

180. (1) [* * * * * *][4] [The expenses incurred in carrying out any of the provisions of this Chapter][5] in any estate or part thereof, or such portion of those expenses as the Local Government may direct, shall be defrayed by the landholder and ryots in the estate or part thereof and the holders of any land held on favourable terms within such estate if such land is included in the record-of-rights in such proportions as the Local Government, having regard to all the

[1] The provisos to section 177 were added by section 98 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words within square brackets were substituted for the words "suit or proceeding" by section 99 *ibid.*

[3] The words "his right" were substituted for the words "a right of which he is in possession" by section 100 *ibid.*

[4] The words "When the preparation of a record-of-rights under this Chapter has been directed or undertaken" were omitted by section 101 (i) *ibid.*

[5] The words within square brackets were substituted for the words "the expenses incurred by the Government in carrying out the provisions of this Chapter" by *ibid.*

circumstances, may determine; and the proportion of those expenses so to be defrayed by any person shall be deemed to be land revenue and may be recovered as arrears of land revenue under the provisions of the Madras Revenue Recovery Act, 1864, or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be.

Madras Act II of 1864.

Madras Act VI of 1867.

(2) The cost of the preparation of copies of survey maps and record-of-rights prepared under this Chapter for distribution to landholders and ryots shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.

CHAPTER XII.

LANDHOLDER'S PRIVATE LAND.

Conversion of private land into ryoti land.

[1][**181.** A landholder shall be at liberty to convert his private land into ryoti land and confer occupancy right in land so converted.]

Power to order survey and record of landholder's private land.

182. The Local Government may make an order directing [the Collector][2] to make a survey and record of all the landholder's private land in a specified local area.

No order under this section shall be questioned in any Civil or Revenue Court.

Power to record private land on application of landholder or occupant.

183. (1) In the case of any land alleged to be a landholder's private land, on the application of the landholder or of any occupant and on his depositing the required amount for expenses, [the Collector][2] may, subject to rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a landholder's private land.

(2) Notwithstanding anything contained in any agreement or compromise, [* * * *][3] [the Collector][2] shall not record any land as a landholder's private land, unless it is proved to be such by satisfactory evidence [* * * * *][4].

Procedure for recording private land.

184. When [2][the Collector] proceeds under either section 182 or section 183, the provisions of sections 166, 167, 179 and 180 shall, so far as may be, apply.

Rules for determining landholder's private land.

185. When in any suit or proceeding it becomes necessary to determine whether any land is the landholder's private land regard shall be had to local custom and to the question whether the land was before the first day of July 1898 specifically let

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[1] Section 181 was substituted for the original section by section 102 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "the Collector" were substituted for the words "a Revenue officer" by section 3 (2) *ibid.*

[3] The words "or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud" were omitted by section 103 *ibid.*

[4] The words and figures "of the nature described in section 185" were omitted by *ibid.*

as private land and to any other evidence that may be produced, but the land shall be presumed not to be private land until the contrary is shown [* * * *][1].

CHAPTER XIII.

ACQUISITION BY LANDHOLDER OF LAND FOR BUILDING AND OTHER PURPOSES.

Acquisition by landholder of land for building and other purposes.

[2][**186.** (1) (*a*) If the District Collector on the application of a landholder is satisfied after giving notice to the landholder and the ryot or inamdar, as the case may be, and making such inquiry as he thinks fit, that the landholder is desirous of acquiring any land within the limits of his estate in the occupation of a ryot or an inamdar, for some reasonable and sufficient purpose having relation to the good of the holding, if any, of which such land forms part, or of the estate including the use of the land as building ground or for any religious, educational, communal or charitable purpose or for the opening and working of mines or for the purpose of a tank or of supply, drainage, surplus or irrigation channels, he may grant a certificate to the landholder specifying the land and stating that the purpose for which the landholder desires to acquire it is reasonable and sufficient.

The District Collector's certificate with regard to the reasonableness and sufficiency of the purpose for which any land is required by the landholder shall be final and shall not be open to question in any civil court.

(*b*) The Local Government may, on application by the landholder and on the production by him of a certificate of the District Collector under clause (*a*) in respect of any land and subject to his depositing the probable cost of the acquisition as estimated by the District Collector and fulfilling such other conditions as may by general or special order, be laid down by the Local Government in this behalf direct the District Collector to take order for the acquisition of the interest of the ryot or inamdar in such land under the Land Acquisition Act, 1894. Thereupon the provisions of that Act shall, subject to the modification specified in sub-section (2), apply as if such interest were land within the meaning of the said Act and the Local Government had directed the District Collector to take order for the acquisition of the same under section 7 of the said Act.

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[1] The words "Provided that all land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour with his own or hired stock for twelve years immediately before the commencement of this Act shall be deemed to be the landholder's private land" were omitted by section 104 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 186 was substituted for the original section by section 105 *ibid.*

If the cost of the acquisition including all charges incidental thereto exceeds the amount deposited the landholder shall pay such excess and if such cost is less than the amount deposited, the difference shall be refunded to him. The interest acquired shall be transferred to the landholder on payment by him, in full, of the cost of acquisition.

(2) Where the land has been acquired for the opening and working of mines and the ryot or inamdar has any right in the minerals, the compensation awarded to him shall include compensation for such right.]

CHAPTER XIV.

CONTRACT.

187. (1) Nothing in any contract between a landholder and a ryot made before or after the passing of this Act— **Restrictions on contract.**

(*a*) shall take away or limit the right of the ryot to make improvements in accordance with the provisions of this Act ;

(*b*) shall take away or limit the right of [1][a ryot] to use the land as provided by section 11 ;

(*c*) shall take away the right of [1][a ryot] to sue or apply for a reduction of rent on the grounds stated in clauses (*a*) and (*b*) of sub-section (1) of section 38 or [sub-section (3) of section 32,][2] or except in the case of any subsisting lease for a fixed period made before the first day of January 1908 on the ground stated in clause (*c*) of sub-section (1) of section 38 ;

(*d*) shall take away the right of [1][a ryot] to apply for an alteration of rent under the provisions of section 42 ;

(*e*) shall take away the right of a landholder or [1][a ryot] to [3][apply for commutation of rent] under section 40 ;

(*f*) shall take away the right of [1][a ryot] to surrender his holding in accordance with section 149 ; or

(*g*) shall entitle a landholder to eject a ryot otherwise than in accordance with the provisions of this Act.

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[1] The words "a ryot" were substituted for the words "an occupancy ryot" by section 106 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words and figures "sub-section (3) of section 32" were substituted for the words and figures "sub-section (2) of section 32" by section 106 (ii) *ibid.*

[3] The words "apply for a commutation of rent" were substituted for the words "sue for commutation of rent" by section 106 (iii) *ibid.*

(2) Nothing in any contract between a landholder and a ryot made after the passing of this Act shall affect the provisions of section 61 relating to interest payable on arrears of rent so as to increase the amount of interest payable.

188. [* * * * * *][1].

CHAPTER XV.

JURISDICTION AND PROCEDURE.

Suits and applications.

189. [2][(1) A District Collector or Collector hearing suits or applications of the nature specified in Parts A and B of the Schedule and the Board of Revenue or the District Collector exercising appellate or revisional jurisdiction therefrom shall hear and determine such suits or applications or exercise such jurisdiction as a Revenue Court.

No Civil Court in the exercise of its original jurisdiction shall take cognizance of any dispute or matter in respect of which such suit or application might be brought or made.]

Appeals.

(2) [3][Decrees and orders passed in the suits and applications referred to in sub-section (1)] shall be subject to appeal as provided in the sixth column of Parts A and B of the schedule.

(3) The decision of a Revenue Court or of an appellate or revisional authority in any suit or proceeding under this Act on a matter falling within the exclusive jurisdiction of the Revenue Court shall be binding on the parties thereto and persons claiming under them, in any suit or proceeding in a Civil Court in which such matter may be in issue between them.

[4][(4) The decision of a Civil Court on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any suit or proceeding before a Revenue Court or an appellate or revisional authority in which such matter may be in issue between them.]

Second appeals.

[5][190.] A second appeal shall lie to the Board of Revenue against the orders passed on appeal by a District Collector in the case of [6][an application under section 15, section 25, sub-section (3) of section 32, section 40 or sub-section (2) of section 42.]

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[1] Section 188 was omitted by section 107 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-section (1) of section 189 was substituted for the original sub-section by section 108 (i) *ibid.*

[3] The words and figure within square brackets were substituted for the words and figure "Decrees and orders passed under sub-section (1)" by section 108 (ii) *ibid.*

[4] Sub-section (4) of section 189 was added by section 108 (iii) *ibid.*

[5] Sub-section (1) of section 190 was renumbered as section 190 and sub-section (2) was omitted by section 109 (1) *ibid.*

[6] The words and figures within square brackets were substituted for the words and figures "an application under section 15 or a suit under section 40" by section 109 (2) *ibid.*

191. The period of limitation for an appeal under sections 189 and 190 shall run from the date of the order or decree appealed against [* * * *][1] and shall be as follows ; that is to say :— Limitation for appeals under sections 189 and 190.

(*a*) when the appeal lies to the District Court or District Collector—thirty days ;

(*b*) when the appeal lies to the Board of Revenue—sixty days.

[2][**192.** (1) The Local Government may from time to time make rules consistent with this Act declaring that any provisions of the Code of Civil Procedure, 1908, shall not apply to suits, applications, appeals, or other proceedings under this Act in any Civil or Revenue Court or to any specified classes of such suits, applications, appeals or proceedings or shall apply to them subject to modifications and additions specified in the rules. Application of Code of Civil Procedure, 1908 to proceedings under Act.

V of 1908.

(2) Subject to any rules so made and subject also to the other provisions of this Act and the following modifications and additions, the provisions of the Code of Civil Procedure, 1908, shall apply to all such suits, applications, appeals and proceedings so far as they are not inconsistent therewith :—

V of 1908.

(*a*) (i) The plaint shall specify, in addition to the particulars mentioned in rule 1 of Order VII of the said Code, the name of the village in which the land to which the suit relates is situated, the designation, if any, of the land and a description of the land sufficient for its identification ;

(ii) Where the suit is for the recovery of rent due on land situated within an area in which a record of rights has been prepared and published, the plaint shall further contain a statement of the rent of the holding according to the record-of-rights:

Provided that if the Court sees fit at any time to require it, a copy of, or extract from, the record-of-rights relating to the holding shall be produced by the plaintiff, or shall, if necessary, on the requisition of the Court, be supplied by the Collector on payment by the plaintiff or the defendant as the Court may direct of such fee as the Local Government may by rule under this Act prescribe,

(iii) If the suit is for arrears of rent the plaint shall contain a statement of account showing the instalments payable for the period to which the

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[1] The words " excluding the time occupied in obtaining a copy of such order or decree " were omitted by section 110 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934.)

[2] Setion 192 was substituted for the original section by section 111 *ibid.*

suit relates, the amount, if any, received, and the amount claimed to be due.

(*b*) No set-off whether legal or equitable shall be pleaded by way of defence to any suit under this Act.

(*c*) When any rent roll or collection or measurement papers have been produced by a landholder in any Court, in a suit, application or proceeding pending therein copies of or extracts from such documents which have been certified by a duly authorized officer of such Court to be true copies or extracts may be admitted in evidence, in proof of the originals in any other suit, application or proceeding instituted in the same or another Court unless the Court in which such copies or extracts are produced sees fit to require the production of the originals.

(*d*) To the particulars not liable to attachment or sale under section 60 of the said Code shall be added "manure stocked by an agriculturist."

(*e*) Standing timber, growing crops or other products of the earth may be attached and sold in execution of a decree in the same manner as movable property, and if the property attached is growing crops or other products of the earth, the judgment-debtor and the decree-holder shall have the same rights in respect of the tending, gathering, and storing thereof as the cultivator and the distrainer, respectively, would have had under section 83 if such crops or products had been distrained for an arrear of rent.

(3) In any suit, application or proceeding under this Act to recover rent or to contest distraint or the right of sale of a holding, if a party admits that rent as claimed or part thereof is due but pleads that it is due not to the plaintiff or applicant or the defendant or respondent as the case may be, but to a third person, or pleads that the provisions of this Act have not been complied with, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the party aforesaid pays into Court the amount admitted to be due or such reasonable portion of the amount as the Court may direct.

(4) Where such a payment is made and the plea is that the rent to the extent admitted is not due to the plaintiff or applicant or the defendant or respondent as the case may be, but to a third person, the Court shall forthwith cause notice of the payment to be served on the third person.

Unless the third person, within three months from the receipt of the notice, institutes a suit before the Civil Court against the plaintiff or applicant or the defendant or respondent and therein obtains an order restraining payment, the amount in deposit shall be paid out to the plaintiff or applicant or the defendant or respondent as the case may be, on his application.

Nothing in this sub-section shall affect the right of any person to recover by suit in a Civil Court from the plaintiff or applicant or the defendant or respondent as the case may be, any payment made to him under it.

(5) In any suit, application or proceeding under this Act to recover rent or to contest distraint or the right of sale of a holding, if a party admits that rent is due from him to the plaintiff or applicant or the defendant or respondent, as the case may be, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the party aforesaid pays into Court the amount so admitted to be due or such reasonable portion of the amount as the Court may direct.

(6) If any suit or application between landholder and ryot as such is adjusted wholly or in part by any lawful agreement or compromise, or if the defendant or respondent satisfies the palintiff or applicant in respect to the whole or any part of the matter of the suit or application, the Court may pass a decree or order in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit or application, but may refuse to do so if, for reasons to be recorded, the Court considers such agreement, compromise or satisfaction, to be unfair and inequitable.

(7) A decree or order passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of the subject-matter of the suit or application as is dealt with by such agreement, compromise or satisfaction.]

Joinder of ryots in applications for commutation, enhancement or reduction of rent.

[1][**193.** (1) An application for commutation, enhancement or reduction of rent may be made against or by any number of ryots collectively :

Provided that all such ryots are ryots of the same landholder and that all the holdings in respect of which the application is made are situated in the same village and that the grounds of commutation, enhancement or reduction, as the case may be, are the same :

Provided also that, if it appears to the Revenue Court that the application cannot be conveniently disposed of,

1 Section 193 was substituted for the original section by section 112 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

jointly, the Court may, at any time before the first hearing, of its own motion or on the application of any of the parties, or, at any subsequent stage, if the parties agree, order separate trials of the application or make such other order as may be necessary or expedient.

(2) No order shall be passed in any application under sub-section (1) affecting the interests of any person unless the Court is satisfied that the person has had an opportunity of appearing and being heard.

(3) The order shall specify the extent to which each of the ryots is affected thereby.]

194. [1][* * * * * *]

195. [1][* * * * * *]

196. [1][* * * * * *]

Court to give receipt.

[2][**197.** When a party makes a payment under sub-section (3) or sub-section (5) of section 192 or pays into Court in any suit, application or proceeding under this Act any amount as due from him to the landholder or person claiming under the landholder, the court shall give the party aforesaid a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the person lawfully entitled to the rent or by the landholder or person claiming under the landholder as the case may be.]

198. [3][* * * * * * *]

199. [3][* * * * * * *]

Landholders who may be parties.

200. [4][(1) An application for commutation, enhancement or reduction of rent or for alteration of rent with reference to area, shall be made only by or against the landholder in possession of the estate or the part concerned, as the case may be :

Provided that—

(i) where it appears that such landholder is not the owner of the estate or the part concerned, notice of the application shall, at the expense of the applicant, be given by the Revenue Court to the owner who shall be made a party to the application ; and

(ii) where such landholder is not the owner of the estate or the part concerned and is unwilling to make an application for commutation, enhancement or alteration of rent, the owner may make such application making the landholder in possession a party

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1 Sections 194, 195 and 196 were omitted by section 113 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 Section 197 was substituted for the original section by section 114 *ibid.*

3 Sections 198 and 199 were omitted by section 115 *ibid.*

4 Sub-section (1) of section 200 was substituted for the original sub-section by section 116 *ibid.*

thereto ; but any rent which may be fixed by the Revenue Court in such application shall be payable only to the landholder entitled to possession of the estate or the part concerned.]

(2) Proceedings under [Chapter VIII][1] shall be taken against the landholder in possession, but if such landholder is not also the owner, the latter shall be made a party to the proceedings.

(3) Either the owner or the landholder, where the landholder entitled to the present possession of the estate is not the owner thereof, may as landholder make an application under sections 164, 168 or 186, but notice of the application shall be given to the other.

Transfer of decree or order passed by Revenue Court for payment of money.

[2][**201.** A decree or order for payment of money passed by a Revenue Court shall not be transferred to any Court other than a Civil Court for execution.]

202. [3][* * * * * *]

Regard to be paid by Courts to entries in record-of-rights.

203. (1) Where for any local area a record-of-rights has been prepared and finally published under sub-section (2) of section 166 or sub-section (3) of section 170, in all suits between landholder and ryot as such, the plaintiff shall annex to the plaint or, if for any cause which the Court deems sufficient he fails to do so, shall produce within a reasonable time to be fixed by the Court, a certified copy of any entry in the record-of-rights relating to the land in respect of which the suit is brought.

(2) In deciding such suits the Court shall have regard to the entries produced under sub-section (1), unless such entries have been proved to be incorrect, and when the Court passes a decree at variance with such entries it shall record its reasons for so doing.

(3) No fee shall be charged for the grant of certified copies of entries in a record-of-rights required for the purpose specified in sub-section (1).

(4) In the case of such suits, the following clause shall be deemed to be added to [rule 11 of Order VII][4] of the Code of Civil Procedure, [1908][5] as clause (*e*), namely :—

V of 1908.

(*e*) In any suit to which section 203 of the Madras Estates Land Act, 1908, applies, if the certified copy

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1 The word and figures " Chapter VIII " were substituted for the word and figures " Chaptor VII " by section 116 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

2 Section 201 was substituted for the original section by section 117 *ibid.*

3 Section 202 was omitted by section 118 *ibid.*

4 The words and figures " rule 11 of order VII " were substituted for the word and figures " section 54 " by section 119 *ibid.*

5 The figures "1908 " were inserted by *ibid.*

therein mentioned is not annexed to the plaint, and the plaintiff, on being required by the Court to produce it, fails to do so within the time allowed by the Court.

Power of District Collector and Board of Revenue to distribute business and to withdraw and transfer cases.

204. (1) The District Collector may, by written order, distribute, in such manner as appears fit, any business cognizable under this Act by any [Collector] [1] in the district and by like order he may withdraw any case pending before such [Collector][1] and either dispose of it himself, or by written order refer it for disposal to any other [Collector][2] in the district.

(2) The Board of Revenue shall have the like powers of distribution, withdrawal and reference in respect of all District Collectors and, notwithstanding any order of the District Collector passed under sub-section (1), in respect of [Collectors][3] subordinate to him.

Power to call for and revise proceedings of Collectors.

205. The Board of Revenue or the District Collector may call for the record of any proceeding before a [Collector][4] from whose decision no appeal lies, if such officer appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested, or while acting in the exercise of his jurisdiction to have contravened some express provision of law affecting the decision on the merits, where such contravention has produced a serious miscarriage of justice; and the Board of Revenue or the District Collector, as the case may be, may, after hearing the parties if they attend, pass such order as seems fit.

Power to invest any person with powers of Collector.

206. The Local Government may invest any [person][5] with all or any of the powers of a Collector, for any local area, in respect of all or any classes of original suits or proceedings instituted under this Act, and may withdraw such powers, and the decisions passed by such [person][5] shall be subject to appeal as if they were the decisions of the Collector who would have taken cognizance of the suits or proceedings if [such person had not been so invested][6].

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[1] The word "Collector" was substituted for the words "Collector or other Revenue officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The word "Collector" was substituted for the words "Collector or Revenue-officer" by *ibid.*

[3] The word "Collectors" was substituted for the word "Revenue-officers" by *ibid.*

[4] The word "Collector" was substituted for the word "Revenue-officer" by section 3 (1) *ibid*

[5] The word "person" was substituted for the words "Revenue or Judicial officer" by section 120 (i) *ibid.*

[6] The words "such person had not been so invested" were substituted for the words "the Revenue or Judicial officer had not been so invested" by section 120 (ii) *ibid.*

Appointment of additional District Collectors

207. The Local Government may appoint an officer in addition to the District Collector, to exercise all or any of the powers of a District Collector under this Act.

District Collector and Collectors for scheduled districts.

208. In the scheduled districts of Ganjam and Vizagapatam the Agent to the Governor, and in the scheduled districts of Godavari the Government Agent, shall for the purposes of this Act be the District Collector, and the Assistant Agents in these districts shall for the same purposes be Collectors.

Place of institution of suits or proceedings.

209. [1][(1)All suits, applications or proceedings cognizable by a Collector under this Act shall be brought, made or taken in the revenue division in which the holding or any portion of the holding in connexion with which the suit is brought, the application is made or the proceedings are taken, is situated.]

(2) Subject to the orders of a District Collector, a Collector [* * * *] [2] may sit for the disposal of suits, [applications][3] and proceedings under this Act in any place within the district.

CHAPTER XVI.

LIMITATION.

Limitation for suits, etc.

[4][**210**]. Subject to the provisions of the next following section, every suit instituted, appeal presented, and application made after the period of limitation specified therefor in the schedule hereto annexed or in section 191, shall be dismissed, although limitation has not been set up as a defence.

Application of the Indian Limitation Act, 1908.

IX of 1908.

[5] [**211.** Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1908, except sections 6, 7, 8, 9, 19 and 20 shall apply to all suits, appeals and applications mentioned in section 210.]

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

212. (1) If any person—

Penalties for illegal interference with produce, etc.

(*a*) under colour of this Act dishonestly distrains, sells or causes to be sold, any property, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any produce

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[1] Sub-section (1) was substituted for the original sub-section by section 121 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " or other Revenue officer " were omitted by section 121 (11) *ibid.*

[3] The word " applications " was inserted by *ibid.*

[4] Sub-section (1) of section 210 was renumbered as section 210 and sub-section (2) omitted by section 122 *ibid.*

[5] Section 211 was substituted for the original section by section 123 *ibid.*

duly distrained under this Act or makes a fraudulent conveyance of property to prevent distress for arrears ; or

(*c*) except with the authority or consent of the ryot unlawfully prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding ; or

(*d*) having been ejected under [section 163-A][1] from ryoti land in any estate occupies the same or any portion of the same land without the landholder's consent ; [or] [2]

[3] [(*e*) wilfully and without lawful excuse obstructs any entry or measurement under section 17-A].

he shall be liable on conviction before a magistrate not below the rank of a magistrate of the second class to fine which may extend to five hundred rupees.

(2) Any person who abets the doing of any act mentioned in sub-section (1) shall be deemed to have abetted an offence within the meaning of the Indian Penal Code. XLV of 1860.

(3) Persons entering the apartments of women or forcing open the outer doors of dwelling-houses contrary to the provisions of this Act shall be deemed to have committed house trespass within the meaning of the Indian Penal Code. XLV of 1860.

General Right of Suit.

General right of suit for damages.

213. (1) Any person deeming himself aggrieved, (*a*) by any proceedings taken under colour of this Act, or (*b*) by neglect or breach of any of its provisions, shall be at liberty to seek redress by filing a suit for damages before the Collector.

(2) This section shall not be deemed to bar any right of action in a Civil Court in any case not taken out of its jurisdiction by this Act.

(3) Provided always that any person who files a suit for damages under sub-section (1) shall not be entitled to file a suit in respect of the same cause of action before a Civil Court.

Agents of Landholders.

Power of landholder to act through agent.

214. (1) Any act, appearance, or application before [4][the Board of Revenue, or any District Collector, Collector or officer] which is required or authorized by this Act to be made

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The word figures and letter "section 163-A" were substituted for the word and figures "section 163" by section 124 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The word "or" was inserted by *ibid.*

[3] Clause (*e*) was inserted by section 124 (ii) *ibid.*

[4] The words within square brackets were substituted for the words "any Collector or officer" by section 3 (2) *ibid.*

or done by a landholder, may be made or done also by an agent empowered in this behalf by a written authority under the hand of such landholder.

(2) Every notice required by this Act to be served on or given to a landholder shall, if served on or given to an agent empowered as aforesaid to accept service of or receive the same on behalf of the landholder, be as effectual for the purposes of this Act as if it had been served on or given to the landholder in person.

(3) Every document required by this Act to be signed or certified by a landholder, [* * * *][1] may be signed or certified by an agent of the landholder authorized in writing in that behalf.

Rules under Act.

Power of Local Government to make rules.

215. [2][The Local Government may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

In particular and without prejudice to the generality of the foregoing provision, the Local Government may make rules—]

(1) to regulate the procedure to be followed by [3][District Collectors and Collectors] in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits ;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Madras Survey and Boundaries Act, [1923 ;][4] and

Madras Act VIII of 1923.

(*c*) power to cut and thresh the crops on any land and weigh or measure the produce, with a view to estimating the capabilities of the soil :

(2) prescribing forms and the mode of service of notices under this Act where no form or mode is prescribed by this or any other Act :

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[1] The words " except an instrument appointing or authorizing an agent " were omitted by section 9 of the Madras Estates Land (Amendment) Act, 1909 (Madras Act IV of 1909).

[2] The words in square brackets were substituted for the words " The Local Government may, after previous publication, make rules consistent with this Act " by section 125 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] The words " District Collectors and Collectors were substituted for the words " Collectors and Revenue-officers " by section 3 (2) *ibid.*

[4] The figures " 1923 " were substituted for the figures " 1897 " by section 125 (ii) *ibid.*

(3) as to the procedure to be followed in applications under this Act :

(4) as to the fees, costs and charges to be paid for the purposes of this Act :

(5) for the use of threshing floors, cattle-stands, village-sites and other lands set apart for communal purposes [1][and of the beds and bunds of tanks, supply, drainage, surplus or irrigation channels :]

(6) for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists :

(7) for the sale of distrained crops or products which are in their nature speedily perishable :

(8) for the survey of lands and the preparation of a record-of-rights and of a settlement record of rent :

(9) prescribing the superior revenue authority to whom appeals shall lie from orders of a [Collector][2] on objections to a preliminary record of settlement of rent : [and][3]

(10) prescribing the form in which registers shall be maintained [4][of suits and applications disposed of under this Act.]

(11) [5][* * * * * * *].

[6]SCHEDULE.]

(*See* sections 189 and 210.)

PART A.—Suits triable by a Collector.

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
1	55	To obtain a patta ..	Three months ..	The date of the expiration of three months after demand.	District Court.
2	56	To enforce acceptance of patta.	Three months ..	The date of the expiration of one month from failure to accept.	District Court.

[1] The words within square brackets were added by section 125 (iii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The word "Collector" was substituted for the word "Revenue-officer" by section 3 (1) *ibid.*

[3] The word "and" was added by section 125 (iv) *ibid.*

[4] The words within square brackets were substituted for the words " by a Collector of suits and applications heard and decided by him : and " by section 125 (v) *ibid.*

[5] Clause (11) was omitted by section 175 (vi) *ibid.*

[6] The schedule was substituted for the original schedule by section 126 *ibid.*

PART A.—Suits triable by a Collector—*cont.*

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
3	77	By landholder to recover arrears of rent.	Three years ..	The date when the arrear becomes due or, where there has been a suit or other proceeding for the purpose of ascertaining the rent, the date of the decree or order by which the rent is finally ascertained, which ever date may be later.	District Court.
4	88	For damages when distrained property is stolen, lost, damaged or destroyed.	Six months ..	The date when the property was stolen, lost, damaged or destroyed.	District Court.
5	95 (1) and (2)	To contest distraint.	Fifteen days ..	The date of service of notice requiring either the payment of the amount demanded or the institution of a suit to contest the distraint.	District Court.
6	112	To contest the right of sale of a holding.	Thirty days ..	The date of service of notice on the defaulter requiring him to pay the amount due or institute a suit contesting the right of sale.	District Court.
7	127 (2) (c)	For payment of the subsequent rent.	Thirty days ..	The date of sale of the holding.	District Court.
8	136	To recover illegal payments and penalties in respect of such payments as have been exact	Six months ..	The date of the payment.	District Court.
9	140	To recover the cost of execution of works of repair to an irrigation work from a dasabandam inamdar.	Three years ..	The date of completion of the works.	District Court.
10	149	To be indemnified against loss of rent when a holding is relinquished.	Six months ..	The commencement of the revenue year succeeding that in which the relinquishment is made.	District Court.
11	151 (1)	To eject a ryot ..	Two years ..	The date on which the right to eject accrued.	District Court.
12	151 (2)	For compensation or for an injunction or for the repair of the damage or waste.	Do. ..	When the damage was done or the waste began	District Court.
13	213 (1)	For damages not otherwise provided for.	Three months ..	The date of the accrual of the cause of action.	District Court.

PART B.—Applications to be disposed of by a District Collector or Collector.

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
1	12 (2)	For fixing the compensation payable in respect of trees belonging to a landholder which are acquired by the ryot.	None	None	District Collector.
2	15	As to the right to make an improvement or as to whether a particular work is or will be an improvement.	None	None	District Collector.
3	16	To register improvements.	None [subject to sub-section (3) of section 16].	None [subject to sub-section (3) of section 16].	Against refusal to register — District Collector.
4	17	For recording evidence relating to an improvement.	None	None	Against refusal to record evidence —District Collector.
5	20-A (1)	For declaring that any communal land is not required for its original purpose and directing that it be used for any other communal purposes or be converted into Government ryotwari or landholder's ryoti land.	None	None	Against a declaration that the land is not required for its original purpose or an order directing that the land be used for any other communal purpose—Board of Revenue. Against an order directing the conversion of the land into Government ryotwari or landholder's ryoti land—District Court.
6	25	For settlement of a fair and equitable rent.	None	None	District Collector.
7	30	For enhancement of rent payable by a ryot.	None (subject to sections 37, 41 and 177).	None (subject to sections 37, 41 and 177).	District Court.
8	32 (2)	Application by landholder to register improvement.	One year ..	The date of completion of the improvement.	Against registration or refusal to register—District Collector.
9	32 (2)	Application by landholder to enforce contract for payment of additional rent on account of improvement registered under section 32 (2).	One year ..	Date of registration.	District Collector.
10	32 (3)	For revision of enhancement of rent.	None	None.	District Collector.
11	38	For reduction of rent.	None (subject to sections 39, 41 and 177).	None (subject to sections 39, 41 and 177).	District Court.
12	40	For commutation of rent.	None	None	Against the fixing of the valuation at time of commutation in so far as it determines the sum to be paid as money rent—District Court.
13	42 (2)	For alteration of rent with area.	None	None	District Collector.

PART B.—Applications to be disposed of by a District Collector or Collector—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
14	54	For permission to file patta in the office of Collector or other officer.	One year ..	The commencement of the revenue year to which the patta relates.	District Collector.
15	65	For compensation for withholding receipt.	Three months ..	The date of payment.	District Collector.
16	68	For permission to deposit rent in the office of Collector.	None	None	None.
17	71 (3)	For repayment of deposited rent.	None	None	None.
18	74	For deputation of officer to make the appraisement or division.	None	None	None.
19	89	By third person having a right or interest in distrained property.	Any time before the date of sale.	None	None.
20	90	For delivery of property fraudulently conveyed to prevent distress or for payment of the value of such property.	Six months ..	The date on which the arrear became due.	None.
21	90	For restoration of distrained property forcibly or clandestinely taken away or for payment of the value of such property.	Thirty days ..	The date on which the distrained property was forcibly or clandestinely removed.	None.
22	102	To obtain a certificate from the Collector for the recovery from the defaulting purchaser of the deficiency in price and costs resulting from second sale.	Three months ..	The date of the certificate of the sale officer.	District Court.
23	106 (5)	For determination of expenses.	Three months ..	The date of the sale officer's decision.	None.
24	114	For sale of holding if no suit contesting the right of sale has been instituted.	Forty-five days ..	The posting by the Collector of intimation of service under section 113.	None.
25	114	For sale of holding if a suit contesting the right of sale has been instituted.	Thirty days ..	The date of disposal or withdrawal of the suit.	None.
26	123	To obtain a certificate from the Collector for the recovery from the defaulting purchaser of the deficiency in price and costs resulting from second sale.	Three months ..	The date of the certificate of the sale officer.	District Court.
27	131	For depositing sum to set aside sale of holding.	Forty-five days ..	The date of sale..	None.
28	135	To set aside sale of holding.	Before the grant of a certificate of sale.	None	None.

PART B.—Applications to be disposed of by a District Collector or Collector—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
29	133	For grant of time to pay arrears due.	Before the issue of an order for sale under section 116.	None	None.
30	137	For the determination of the ayacut under an irrigation work.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
31	137-A	For sanction to extend the ayacut of an irrigation work.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
32	137-C	For reclassification of irrigated or garden land as unirrigated land.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
33	138	For obtaining an order for the repair of an irrigation work.	None	None	Against any order under section 139 (1) or (2)—Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
34	141	For temporary reduction of rent.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
35	143 (1)	For any relief under this sub-section read with any of the preceding sections specified in items 30 to 34.	Same as for the appropriate section.	Same as for the appropriate section.	Same as for the appropriate section.
36	..	Any application under Chapter VIII not otherwise provided for.	Six months ..	The date on which the right to the relief claimed arose.	Board of Revenue in the case of orders passed by the District Collector and District Collector in the case of orders passed by the Revenue Divisional Officer.
37	145 (9)	For apportionment of rent where the distribution made by the landholder is not assented to by any ryot.	Three months ..	The date of communication of the distribution to the ryot.	District Collector.
38	145 (9)	For apportionment of rent where the landholder has delayed distribution for over six months.	None	None	District Collector.

PART B.—Applications to be disposed of by a District Collector or Collector—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
39	149 (1)	For revision of the apportionment of rent made by a landholder.	Six months ..	The date of communication of landholder's decision to the ryot.	District Collector.
40	158	For issue of warrant to enter upon and take possession of the premises.	Three months ..	The date of the expiration of the revenue year for which the arrear was due.	District Collector.
41	160	To set aside warrant of eviction.	Fifteen days or the period extended by the Collector under section 159.	The date of service of the warrant.	District Collector.
42	163 1st paragraph.	For determination of a fair and equitable rent.	None	None	District Collector.
43	163 2nd paragraph.	For determining sum payable as damages by a person unauthorizedly occupying land.	One year ..	The end of the revenue year in which the occupation is made.	District Collector.

MADRAS ACT No. I OF 1909[1].

[THE MADRAS REVENUE RECOVERY AMENDMENT ACT, 1909.]

[*14th December*, 1908 ; *5th January*, 1909.]

An Act to amend the Madras Revenue Recovery Act II of 1864.

WHEREAS it is expedient to amend Madras Act II of 1864 ; It is hereby enacted as follows :— Preamble.

1. This Act shall be called the Madras Revenue Recovery Amendment Act, 1909. Short title.

2. In the proviso to section 37 of Madras Act II of 1864, for the words "so paid," the words "paid under this or the next succeeding section" shall be substituted. Amendment of section 37 of Madras Act II of 1864.

3. The following shall be inserted as section 37-A after section 37 of Madras Act II of 1864 :— Insertion of a new section after section 37 of Madras Act II of 1864.

[*Vide pp.* 297–298 *supra.*]

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1908 Pt. IV, p. 788 ; and for Proceedings in Council, *see ibid.* p. 809.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 19th January, 1909.

Amendment of section 38 of Madras Act II of 1864.

4. In clause (3), section 38 of Madras Act II of 1864, for the words "if no such application is made," the words "if no application to have the sale set aside is made under section 37-A or under clause (1) of this section" shall be substituted.

MADRAS ACT No. II OF 1909[1].

[14*th December*, 1908 ; 7*th January*, 1909.]

An Act to repeal the Madras Labour and Emigration Act, 1866 (Madras Act No. V of 1866).

Preamble.

WHEREAS it is expedient to repeal the Madras Labour and Emigration Act, 1866 (V of 1866) ; It is hereby enacted as follows :—

Repeal of Madras Act V of 1866.

1. The Madras Labour and Emigration Act, 1866 (V of 1866), is hereby repealed.

MADRAS ACT No. III OF 1909[2].

[THE MADRAS DISTRICT POLICE AND TOWNS NUISANCES ACTS AMENDMENT ACT, 1909.]

[14*th December* 1908 ; 8*th January* 1909.]

An Act to amend the Madras District Police Act, 1859, and the Madras Towns Nuisances Act, 1889.

Preamble.

WHEREAS it is expedient further to amend the Madras District Police Act, 1859, and the Madras Towns Nuisances Act, 1889 ; It is hereby enacted as follows :— XXIV of 1859. Mad. Act III of 1889.

Short title.

1. This Act may be called the Madras District Police and Towns Nuisances Acts Amendment Act, 1909.

Amendment of the definition of "subordinate" in Act XXIV of 1859.

2. In the definition of the word "subordinate" in section 1 of the Madras District Police Act, 1859, the words "and Deputies" shall be inserted after the word "Assistants". XXIV of 1859.

Amendment of section 10 of Act XXIV of 1859.

3. In section 10 of the Madras District Police Act, 1859, XXIV of 1859.

(*a*) after the words "the Inspector-General of Police," the words "Deputy Inspectors-General" shall be inserted ; and

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1 Mad. Act II of 1909 is spent.

2 For the Statement of Objects and Reasons, *see Fort St. George Gazette*, 1908, Pt. IV, p. 790 and for Proceedings in Council, *see ibid* p. 820.

The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of the 19th January 1909.

(*b*) for the word "Deputy" before the word "Superintendents," the word "District" shall be substituted.

Madras Act III of 1889.

4. In section 9 of the Madras Towns Nuisances Act, 1889, the words "or Deputy" shall be inserted between the words "Assistant" and "Superintendent." Amendment of section 9 of Madras Act III of 1889.

MADRAS ACT No. IV OF 1909.[1]

[THE MADRAS ESTATES LAND ACT AMENDMENT ACT, 1909.]

[14*th February* 1909; 3*rd March* 1909.]

An Act to amend the Madras Estates Land Act, 1908.

Madras Act I of 1908.

Whereas it is expdient to amend the Madras Estates Land Act, 1908; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Madras Estates Land Act Amendment Act, 1909; and it shall be deemed to have come into force with effect from the first day of July 1908. Short title and commencement.

Madras Act I of 1908.

2. In section 3 of the Madras Estates Land Act, 1908, clause (*c*) of, and the *Explanation* to, sub-section (11) shall be omitted. Amendment of sub-section (11) of section 3.

3. To sub-section (1) of section 6 of the said Act, the following explanation shall be added, namely :— Amendment of sub-section (1) of section 6.

[*Not printed. See footnote on p.* 651 *supra.*]

4. In sub-section (4) of section 6 of the said Act, after the words "permanent right of occupancy" the following shall be inserted, namely :— Amendment of sub-section (4) of section 6.

[*Not printed. See footnote on p.* 651 *supra.*]

5. In the proviso to sub-section (1) of section 46 of the said Act, the following amendments shall be made, namely :— Amendment of sub-section (1) of section 46.

[*Not printed. See footnote No.* 2 *on p.* 666 *supra.*]

6. In section 138 of the said Act, the following amendments shall be made, namely :— Amendment of section 138.

[*Not printed. See footnote on p.* 693 *supra.*]

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1 For Statement of Objects and Reasons, *see Fort St George Gazette*, 1908, Pt. IV, p. 794; for Report of Select Committee, *see ibid*; for Proceedings in Council, *see ibid*, 1909, Pt. IV, pp. 4, 21.

Amendment of section 142.

7. In section 142 of the said Act,—

[*The amendments made by this section are not printed. See footnote on page* 693 *supra.*]

Amendment of section 153.

8. To section 153 of the said Act, the following words shall be added at the end, namely :—

[*Not printed. See footnote No.* 1 *on p.* 704 *supra.*]

Amendment of sub-section (3) of section 214.

9. In sub-section (3) of section 214 of the said Act, the words "except an instrument appointing or authorizing an "agent" shall be omitted.

Amendment of item 21 in Part B of Schedule.

10. In the Schedule to the said Act,

[*The amendment made by this section is not printed. See footnote No.* 6 *on p.* 728 *supra.*]

MADRAS ACT No. VI OF 1909.[1]

[THE ARNI JAGIR ACT, 1909.]

[23*rd November* 1909 ; 10*th December* 1909.]

An Act to include the Arni Jagir in the schedule to the Madras Impartible Estates Act, 1904 (Madras Act II of 1904).

Preamble.

Whereas it is expedient to declare that the Arni jagir is impartible and that the Jagirdar cannot exercise unrestricted powers of alienation in respect thereof ; It is hereby enacted as follows :—

Short title

1. This Act may be called the Arni Jagir Act, 1909.

Inclusion of Arni jagir in Schedule to Madras Act II of 1904.

2. The Arni jagir in the District of North Arcot shall be included in the Schedule to the Madras Impartible Estates Act, 1904, as number 11 under the head of North Arcot and be subject to the provisions of that Act. Mad. Act II of 1904.

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1909, Pt. IV, p. 222 and for Proceedings in Council, *see ibid* p. 256.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 21st December, 1909.

MADRAS ACT No. I OF 1911[1].

[THE MADRAS COURT OF WARDS ACT, 1902, AMENDMENT ACT, 1910.]

[*17th December* 1910 ; *12th January* 1911.]

An Act to amend the Madras Court of Wards Act, 1902.

Madras Act I of 1902.

WHEREAS it is expedient to amend the Madras Court of Wards Act, 1902 ; It is hereby enacted as follows :— Preamble.

Madras Act I of 1902.

1. This Act shall be called the Madras Court of Wards Act, 1902, Amendment Act, 1910. Title.

2. For section 50 of the Madras Court of Wards Act, 1902, the following shall be substituted :— Substitution of a new section for section 50 of Madras Act I of 1902.

[*Vide p.* 579 *supra*,]

Madras Act I of 1902.

3. In section 51 and in the first sentence of section 52 of the Madras Court of Wards Act, 1902, the words " Collector or " shall be deleted and the words " or other officer competent " to act as manager under section 25 " shall be inserted after the word " manager " occurring in those sections. Amendment of sections 51 and 52 of Madras Act I of 1902.

Madras Act I of 1902.

4. In the second sentence of section 52 of the Madras Court of Wards Act, 1902, the words " in the name of the Collector or in his own name, as the case may be," shall be deleted and the words " or other officer as aforesaid " shall be inserted after the word " manager." Amendment of section 52 of Madras Act I of 1902.

MADRAS ACT No. IV OF 1911.[2]

[THE LIMITED PROPRIETORS ACT, 1911.]

[14*th June* 1911 ; 4*th July* 1911.]

An Act to amend the Law relating to Proprietors of Estates.

Madras Act II of 1894.

WHEREAS it is expedient that certain persons who are not proprietors as defined in the Madras Proprietary Estates' Preamble.

1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1910, Pt IV, p. 330 ; and for Proceedings in Council, *see ibid*, p. 381.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 24th January, 1911.

2 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1911, Pt. IV, p. 4 ; for Report of Select Committee, *see ibid*, 1911, Extraordinary, p. 39 ; for Proceedings in Council, *see ibid*, 1911, Pt. IV, pp. 80, 332, 449.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 8th July, 1911.

Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897,[1] should be enabled to exercise the powers and discharge the duties of proprietors under the said Acts; and whereas it is also expedient to make provision for the recovery of arrears of revenue from such persons; It is hereby enacted as follows :— Mad. Act II of 1894. Mad. Act III of 1895. Mad. Act IV of 1897.

Short title.

1. This Act may be called the Limited Proprietors Act, 1911.

Repeal.

2. The proviso to the definition of proprietor in section 4 of the Madras Proprietary Estates' Village-service Act, 1894, and in section 3 of the Madras Survey and Boundaries Act, 1897,[1] is hereby repealed. Mad. Act II of 1894. Mad. Act IV of 1897.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, "Estate" and "Village" respectively mean an estate and a village as defined in the Madras Proprietary Estates' Village-service Act, 1894. Mad. Act II of 1894.

Application to Collector for registration as proprietor.

4. Where any person is entitled otherwise than as owner to collect the rents of the whole of an estate or any portion thereof consisting of one or more villages by virtue of any transfer from an owner or of any decree or order of a competent Court or of any rule or provision of law and is not the proprietor as defined in section 4 of the Madras Proprietary Estates' Village-service Act, 1894, he may apply to the District Collector to be registered as proprietor in respect of such estate or portion for all or any of the purposes of the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.[1] Mad. Act II of 1894.

Procedure on such application.

5. (1) The District Collector shall give notice of the application to the registered proprietor and such other persons as appear to him to be interested in the result of the application and, after giving them an opportunity of being heard and making such inquiry as he thinks fit, may register the applicant as proprietor for all or any specified purposes of the said Acts or may refuse registry :

Provided that where the applicant is entitled to collect the rents by virtue of a decree or order of a competent Court or of any rule or provision of law, it shall be open to the District Collector to register him as proprietor without giving notice or holding any inquiry.

(2) Subject to the provisions of sections 7, 11 and 13 and to any decree of a competent civil Court, such registration shall remain in force so long as the applicant is entitled to collect the rents.

[1] The Act has been repealed. *See* now the Madras Survey and Boundaries Act 1923 (Madras Act VIII of 1923).

Procedure in case of dispute.

6. If the District Collector is satisfied that there exists a substantial dispute regarding the applicant's right to collect the rents, he shall require the applicant to establish his right in a civil court, unless for other reasons he is of opinion that the application should not be granted.

Collector may vary or cancel registration.

7. Any registration made by the District Collector under section 5 may be cancelled or varied by him at any time after notice to the persons concerned.

Effect of registration.

8. During the time that any registration under this Act remains in force in respect of an estate or portion of an estate the person so registered shall exercise the powers and discharge the duties of a proprietor under the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897,[1] in such estate or portion in respect of the purposes for which he is registered, and no other person shall act or be treated as proprietor in respect of those purposes in the said estate or portion.

Madras Act II of 1894. Madras Act III of 1895. Madras Act IV of 1897.

Liability of the person registered to pay Government dues.

9. (1) Any person registered as proprietor under this Act by virtue of any transfer made after the commencement of this Act (hereinafter called the transferee) shall in relation to the Government be deemed to be a landholder in respect of the estate or portion of an estate concerned for the purposes of the Madras Revenue Recovery Act, 1864, and shall be liable to be proceeded against under that Act for all sums which are recoverable thereunder from a landholder and which at the time of the registration may be due on such estate or portion as the case may be, or which may become due thereon at any time while such registration remains in force.

Madras Act II of 1864.

(2) If there is any valid agreement between the owner and the transferee of a portion of an estate as to the amount recoverable in respect of such portion, the said amount shall be determined in accordance with such agreement, except where the agreement appears to the District Collector to be unreasonable. In cases where there is no such agreement, or where the agreement appears to be unreasonable, the District Collector shall fix the said amount in the manner laid down in section 45 of the Madras Revenue Recovery Act, 1864.

Madras Act II of 1864.

(3) Nothing in this section shall relieve the transferor or his legal representative from any liability under the Madras Revenue Recovery Act, 1864.

Procedure in the case of default.

10. Where in consequence of the default of the transferee or his legal representative registered as proprietor under this Act it becomes necessary for the recovery of an arrear to proceed against the estate or portion of an estate in respect of

[1] The Act has been repealed. *See* the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

which he is registered as proprietor, the Collector or other officer empowered by the Collector in that behalf shall cause a copy of the notice prescribed in section 36 of the Madras Revenue Recovery Act, 1864, to be served also upon the owner of the estate not less than one month before the sale. Madras Act II of 1864.

Cancellation of registration in case of default.

11. Where in consequence of the default of the transferee or his legal representative registered as proprietor under this Act the owner of the estate pays the arrears due by the defaulter or any part of the estate is sold for the recovery of the arrears, the registration of the defaulter as proprietor under this Act may be cancelled by the District Collector and the defaulter shall, from the date of the cancellation and in cases where it has been appealed against from the date of the appellate order confirming the same, cease to exercise the powers and discharge the duties of a proprietor and cease to be a landholder for the purposes of the Madras Revenue Recovery Act, 1864. Mad. Act II of 1864.

Revival of powers and duties of ordinary proprietor on expiry of registry under this Act.

12. From the date on which any registration under this Act ceases for any cause to be in force the proprietor then registered under the Madras Land Registration Regulation, 1802, or the Madras Land Revenue Assessment Act, 1876, shall possess the powers and be subject to the duties conferred and imposed upon the proprietor by the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.[1] Mad. Reg. XXVI of 1802. Mad. Act I of 1876. Mad. Act II of 1894. Mad. Act III of 1895. Mad. Act IV of 1897.

District Collector's orders to be in writing.

13. (1) The District Collector shall record his reasons in writing for every order passed by him under this Act. A copy of the order shall be despatched by registered post to all parties affected thereby whose addresses can be ascertained.

Appeal to Board of Revenue.

(2) Against every such order an appeal shall lie to the Board of Revenue within two months from the date of despatch.

Barring of suits and applications for an injunction.

14. No suit or application shall lie for an injunction to restrain a District Collector from proceeding under this Act, nor shall the Secretary of State for India in Council or any officer of Government be made a party to any suit or be liable in respect of anything done or purporting to be done under this Act in good faith.

Power to make rules.

15. Subject to the approval of the Local Government the Board of Revenue may make rules not inconsistent with this Act for carrying out the purposes of the Act.

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[1] Now the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

MADRAS ACT No. V OF 1911.[1]

[THE MADRAS HACKNEY CARRIAGE ACT, 1911.]

[16*th June* 1911 ; 7*th July* 1911.]

An Act to amend and declare the Law for the Regulation of Hackney Carriages [* * * * *].[2]

WHEREAS it is expedient to amend and declare the law relating to the regulation of hackney carriages ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Madras Hackney Carriage Act, 1911. Title.

[3][(2) It extends to the town of Madras.] Local extent.

[3][(3) (i) The Local Government may, by notification, extend to such other parts of the Presidency of Madras as it may think fit all or any of the provisions of this Act from a date to be specified in the notification, which shall not be less than three months from the date of the notification.

Provided that no such notification shall be issued unless notice of the proposed extension inviting objections thereto shall have been published not less than two months previously.

(ii) The Local Government may, by notification, cancel or modify any such notification as is referred to in clause (i).]

Mad. Act III of 1879. 2. The Madras Hackney Carriage Act, 1879, is hereby repealed. Repeal.

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

(1) "Commissioner" means the Commissioner of Police appointed under the Madras City Police Act, 1888. "Commissioner."

Mad. Act III of 1888.

(2) "Magistrate" means any magistrate having local jurisdiction in any area to which this Act extends. "Magistrate"

(3) "Hackney carriage" means any wheeled vehicle drawn or pushed by a man or horse, bullock or other "Hackney-carriage."

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[1] For Statemen of Objects and Reasons, *see Fort St. George Gazette*, 1911, Extraordinary, p. 37 ; for Report of Select Committee, *see ibid*, 1911, Pt. IV, p. 285 ; for Proceedings in Council, *see ibid*, 1911, Pt. IV, pp. 84, 463.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of the 8th August, 1911.

[2] The words "in the Town of Madras" were omitted by section 3 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

[3] Sub-sections (2) and (3) were substituted for the original sub-sections by section 4 *ibid.*

animal and used for the conveyance of any person which stands or plies for hire by the hour or day or according to distance.

[1][* * * * * * *].

"Driver." [1](4) "Driving" includes dragging or pushing and "driver" includes any person who drives, drags or pushes any hackney carriage.

"Horse." [1](5) "Horse" includes mule or pony.

"Year of registration" [1](6) "Year of registration" means the year ending with the thirty-first day of March.

CHAPTER II.

REGISTRATION AND NUMBERING OF HACKNEY CARRIAGES.

Annual registration compulsory.

4. Every hackney carriage shall be annually registered by the Commissioner.

Application for registry.

5. (1) Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the Commissioner, and shall submit such vehicle for such inspection as the Commissioner may direct.

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

Right to registry.

6. Every applicant under section 5 shall be entitled to registration unless the Commissioner is of opinion that the vehicle is not fit for public use : Provided that no vehicle shall be registered in the name of a minor.

Grant of carriage licence.

7. (1) The Commissioner shall at the time of registration deliver a license duly signed by him to the applicant.

Currency of licence.

(2) A license granted under this section shall be in force for the year of registration.

Form of licence.

8. The following particulars shall be entered in the register and in the license to be given to the applicant :—

First.—The number in the register of the hackney carriage.

Second.—The name and residence of the owner and the place where the carriage is kept.

Third.—A description of the carriage.

Fourth.—The number of horses or other animals to be employed in drawing such carriage and, if the carriage is drawn or pushed by men, the number of men to be so employed.

[1] Sub-section (4) was omitted and sub-sections (5), (6) and (7) were renumbered by section 5 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

Fifth.—The number of passengers such carriage is licensed to carry.

Sixth.—The date of the license.

9. A fee shall be paid to the Commissioner for each licence in accordance with the following scale :— Fee for license.

	RS.	A.
[1][(*a*) For every four-wheeled carriage drawn by two or more horses licensed to carry more than six passengers	10	0
(*b*) For every other four-wheeled carriage drawn by two horses	5	0
(*c*) For every other four-wheeled carriage drawn by one horse or by bullocks	2	0
(*d*) For every two-wheeled carriage drawn by one horse	1	0
(*e*) For every two-wheeled carriage drawn by one or more bullocks	0	8
(*f*) For every rickshaw, perambulator or other carriage drawn or pushed by a man ..	0	4]

10. The Commissioner may suspend for such period as he thinks fit the licence of any hackney carriage, whenever it appears to him that such carriage or any animal or harness used therewith is unfit for public use. Suspension of license by Commissioner.

11. On any transfer of a hackney carriage the transferee shall, if he desires to use it as such, within one week of the date of the transfer, apply to the Commissioner for transfer of the registry giving him the particulars specified in the first three clauses of section 8. Transfer of registry.

12. (1) Whenever the owner of a hackney carriage changes his residence, or the place where such carriage is kept, he shall within one week from the date of such change forward his license and give to the Commissioner a notice in writing signed by him specifying the new residence or place. Notice of change of residence, etc., to be given by licensee.

(2) Every such owner who neglects to forward his license and give such notice shall be liable to a fine not exceeding twenty rupees. Penalty.

13. The Commissioner, on receiving the application or notice specified in either of the two last preceding sections, shall make the necessary alteration in the register and the license and return the license ; and a fee of two annas shall be payable in respect thereof. Transfers and change of residence to be registered.

14. Whoever keeps any hackney carriage, which has not been duly licensed under this Act, shall be liable to a fine not exceeding fifty rupees. Penalty for keeping unlicensed hackney carriage.

[1] The scale was substituted for the original by section 6 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

Numbering of hackney carriage.

15. (1) Upon the registration of any hackney carriage the Commissioner shall cause to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

Renewal of inscription or plate.

(2) If the words or figures so painted become indistinct or are obliterated during the term of the license, the owner of the carriage shall be bound to produce it before the Commissioner and apply to have such words or figures renewed. If the plate so affixed shall have been lost or stolen, the owner of the carriage shall be bound to apply to the Commissioner to have a new plate affixed. The charge for such painting or new plate shall be four annas.

Return of plate on expiry of license.

16. (1) On the expiration or other determination of the period of registration, the owner of every hackney carriage shall cause the plate of such hackney carriage to be delivered to the Commissioner.

Penalty.

(2) Any person who, after the expiration of the period aforesaid, wilfully omits for fourteen days to deliver the plate to the said officer, shall be liable to a fine not exceeding twenty rupees.

Penalty for using counterfeit plate.

17. (1) Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to one month.

Seizure of counterfeit plate.

(2) Any police-officer may seize and take away any plate used or had as aforesaid, wheresoever the same may be found, and deliver the same to the Commissioner.

Penalty for plying for hire without plate.

18. If any hackney carriage stands or plies for hire without a plate or legible inscription as prescribed by section 15, the owner thereof shall be liable to a fine not exceeding twenty rupees.

CHAPTER III.

Driver's License and Badge.

Grant of driver's license.

19. (1) It shall be lawful for the Commissioner to grant a license to act as driver of any hackney carriage to any applicant whom he may consider fit.

Form of license.

(2) Every such license shall contain—

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, if any, to be used therewith, and

the date on which the license was granted.

and shall bear the signature of the Commissioner.

Currency of license.

(3) Such license shall be in force for the year of registration and the fee payable therefor shall be [1] [one rupee and eight annas] unless the license relates solely to a carriage of the description specified in clause (*f*) of section 9, in which case the fee shall be [six annas][2].

Particulars of license to be registered.

20. The particulars of every license which shall be granted under the provisions of section 19 shall be entered in a register by the Commissioner, and every person applying shall be furnished with a certified copy of such particulars on payment of a fee of two annas.

Penalty for driving without license or lending license.

21. If at any time fifteen days after the time when a license should have been obtained any person acts as the driver of a hackney carriage without having a license in force for the time being, or, having a license, fails to carry it with him when driving a hackney carriage or transfers or lends it or allows it to be used by any other person, he shall be liable to a penalty not exceeding twenty rupees.

Suspension of license by Commissioner.

22. The Commissioner may suspend for such period as he thinks fit the license of the driver of a hackney carriage whenever in his opinion such driver is unfit to be so employed.

Penalty for suffering unlicensed person to drive.

23. The owner of a hackney carriage who knowingly suffers any person, not duly licensed under this Act, to act as driver of such carriage shall be liable 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.

Supply of badge to driver.

24. (1) The Commissioner shall, at the time of granting a license to any driver of a hackney carriage, furnish him with a metal badge punched or marked with the number of his license.

Driver to wear badge.

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

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[1] The words "one rupee and eight annas" were substituted for the words "one rupee" by section 7 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

[2] The words "six annas" were substituted for the words "four annas" by *ibid.*

Penalty.

(3) In case any such driver omits 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.

Renewal of lost or damaged badge.

(4) Whenever the number on any badge becomes indistinct or is obliterated during the term of the license, and also whenever any badge is lost or stolen, the person to whom the license relating to any such badge has been granted shall deliver such badge or notify its loss and shall produce such license to the Commissioner, and such person shall then be entitled to have a new license and badge delivered to him upon payment of [1][the fee mentioned in sub-section (3) of section 19]. Such new license shall be in force for the year of registration.

Penalty.

(5) Every person licensed under the authority of this Act who uses or wears the badge granted to him after the writing thereon has become indistinct or obliterated shall be liable to a fine not exceeding ten rupees.

Return of expired license and badge.

25. (1) Upon the expiration or other determination of any license granted to a driver under this Act he shall deliver such license and his badge to the Commissioner.

Penalty.

(2) Every driver who neglects for three days to deliver such expired license and badge to the Commissioner, and also every person who uses, or wears, or fraudulently detains any such expired license or badge, and every person to whom any expired license or badge has been delivered who lends, gives away, mortgages or sells such badge to any other person and every person who detains, wears or uses any license or badge of any other person shall be liable to a penalty not exceeding twenty rupees.

Penalty for using counterfeit badge.

26. Every person who for the purpose of deception uses or wears any badge resembling or intended to resemble any badge granted under the authority of this Act shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month.

Seizure of expired or counterfeit badge.

27. Any police-officer may seize and take away any expired or counterfeit badge, or any badge in respect of which an offence under section 25 has been committed, wheresoever the same may be found, and deliver the same to the Commissioner.

Penalty for failing to produce license before magistrate.

28. Whenever any driver is 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

[1] The words and figures within square brackets were substituted for the words and figure " half the fee mentioned in section 9 " by section 8 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

the same if required so to do ; and any driver who on such requisition refuses to produce such license shall be liable to a fine not exceeding five rupees.

Convictions under Act to be endorsed on license.

29. On the conviction of any driver for any offence under this Act the magistrate shall cause to be endorsed on his license the nature of the offence, the date of the conviction and the amount of the penalty inflicted.

Cancellation or suspension of license on conviction.

30. (1) On the conviction of any driver for any offence under this Act the magistrate may direct the cancellation of the license of such driver or its suspension for such time as he thinks fit.

Return of license or badge on conviction.

(2) For such purpose he may require the driver or any other person who may be in possession of the license or badge to deliver up the same.

Penalty.

(3) If such driver or other person refuses or neglects to deliver up the license or badge, he shall be liable to a penalty not exceeding ten rupees.

Magistrate to communicate sentence and forward license and badge to Commissioner.

(4) The magistrate shall forward every license and every badge delivered up to him under sub-section (2) to the Commissioner together with a memorandum of his sentence in the case.

Action to be taken by Commissioner.

(5) The Commissioner shall enter the fact of such sentence in the register referred to in section 20, and shall either suspend or cancel such license according to the direction of the magistrate ; and if it has been suspended, the Commissioner shall on application, at the end of the period of suspension, redeliver such license or badge to the person to whom it was granted.

CHAPTER IV.

Fares, Hiring, and Plying for Hire.

Maximum fares for use of hackney carriages.

31. (1) The owner or driver of every hackney carriage may demand and receive for the hire of such carriage such fares as may be fixed and published by the Commissioner with the sanction of the Local Government duly notified :

Contract for lower fare to be binding.

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

Back fares prohibited.

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

Contract for higher fare invalid.

32. No agreement made with the driver of any hackney carriage for the payment of more than the fare published in accordance with section 31 shall be binding on the person

making the same, and any person, notwithstanding such agreement, may refuse on discharging such hackney carriage to pay any sum beyond such fare. If in pursuance of such agreement any person receives any sum exceeding the fare allowed, he shall be liable to pay a fine not exceeding ten rupees and also to refund such excess, which shall be recoverable as if it were a fine.

Penalty.

Publication of authorized fares and distances.

33. (1) The Commissioner shall cause to be prepared a list in English and Tamil or other vernacular language of the fares published under section 31 and shall annex to such list a table showing the distances between the principal places to and from which hackney carriages commonly ply. The distances so shown shall be presumed to be correct.

Copies of published scale to be available for sale.

(2) Copies of such list and table shall be issued to all applicants on payment of a fee of two annas for each copy.

Driver to keep copy of published scale and produce on demand.

(3) The driver of every hackney carriage standing or plying for hire shall have with him a copy of such list and table and shall on demand produce the same for the inspection of any police-officer or for the information of any hirer of, or passenger by, his carriage under penalty on conviction by a magistrate of a fine not exceeding ten rupees.

Maximum distance to which driver is bound to drive.

34. (1) The driver of every hackney carriage standing or plying for hire shall drive such carriage to any place named by the hirer which is not more than three miles from the place of hiring in the case of vehicles of the description specified in clause (*f*) of section 9 and six miles in the case of any other vehicle.

Minimum speed when hired by time.

(2) When any such carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the Commissioner.

Penalty.

(3) A driver failing, without reasonable excuse, to comply with the provisions of this section, shall be liable to a fine not exceeding ten rupees.

Quantity of luggage to be carried.

35. The driver of every hackney carriage shall carry in or upon such carriage without additional charge such quantity of luggage for every person hiring the same as may be prescribed by by-law under this Act.

Penalty for refusing to let hackney carriage for hire.

36. Any owner or driver of any hackney carriage who demands more than the fare to which he is legally entitled or without reasonable excuse refuses to let such carriage for hire shall be liable to a fine not exceeding fifty rupees and to pay such further sum by way of compensation to the party complaining as to the magistrate may seem just ; and such further sum shall, in default of immediate payment, be levied as if it were a fine.

Penalties for various offences by driver.

37. Every driver of a hackney carriage, who—

(*a*) is drunk during his employment,

(*b*) makes use of insulting or abusive language or gesture,

(*c*) stands elsewhere than at some stand or other place appointed for the purpose or loiters for the purpose of being hired in or upon any public street, road or place,

(*d*) wilfully obstructs, or hinders, the driver of any hackney carriage in taking up or setting down any person into, or from, such other carriage,

(*e*) wrongfully prevents or endeavours to prevent the driver of any other hackney carriage from being hired,

(*f*) refuses to admit and carry in such carriage the number of passengers the carriage is licensed to carry,

(*g*) carries more than such number of passengers,

(*h*) refuses to carry such quantity of luggage as is provided by the by-laws under this Act,

(*i*) being hired, permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the consent of the person hiring the same,

(*j*) drives in any hackney carriage any animal which is not so secured as to be under the control of the driver,

(*k*) being hired by time or distance, before he has been discharged by the hirer, wilfully deserts from the hiring,

(*l*) plies for hire with any carriage or animal which shall at the time be unfit for public use,

(*m*) without previously disinfecting it knowingly uses for hire any carriage used for the conveyance of a corpse or any person suffering from any contagious or infectious disease,

shall be liable to a fine not exceeding fifty rupees, or to imprisonment which may extend to one month, or to both.

Requisition to owner to produce absent driver.

38. (1) When a complaint is made before a magistrate against the driver of a hackney carriage under this Act, the magistrate may, if the driver fails to appear, summon the owner to appear and to produce the driver.

Penalty.

(2) If the owner after being duly summoned fails without reasonable excuse to appear or to produce the driver according to the summons, he shall be liable to a fine not exceeding fifty rupees.

Ex parte disposal of complaint.

(3) If the owner fails without reasonable excuse to appear or produce such driver on a second or subsequent summons requiring him to do so, the magistrate may dispose of the complaint in the absence of the owner and driver or either of them.

Procedure in case of dispute between hirer and driver.

39. (1) In case of any dispute between the hirer and the driver of any hackney carriage, either may require the other to proceed forthwith to the nearest magistrate's court; and the then sitting magistrate shall hear and determine the dispute in a summary way.

(2) 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.

(3) On failure of either party to appear before the magistrate in pursuance of a requisition under sub-section (1) or sub-section (2) or to attend the court at any subsequent sitting to which the case may be adjourned, the magistrate may decide the case *ex parte*, and his decision shall be binding on both parties.

Procedure in case of refusal to pay fare.

40. (1) If any person who has hired a hackney carriage refuses to pay to the owner or driver thereof the fare payable under this Act, the magistrate may order payment of such fare, and also of reasonable compensation for loss of time and in default of immediate payment such fare and compensation may be recovered as a fine.

Penalty.

(2) If any person who has used any such carriage attempts to evade payment of the legal fare, or any portion thereof, he shall be liable to a fine not exceeding fifty rupees in addition to any payment which may have been ordered under sub-section (1).

Penalty for defacing or destroying plate, badge or table of fares.

41. (1) Every person who wilfully tears, destroys, defaces, obliterates, or removes any plate, list of fares, table of distances, or driver's badge kept under the provisions of this Act, shall be liable to a fine not exceeding twenty rupees.

(2) Any portion of the fine may be awarded to the person to whom such plate, list of fares, table of distances, or driver's badge belongs.

Penalty for wilful injury to hackney carriage.

42. Every person using a hackney carriage who wilfully injures the same shall be liable to a fine not exceeding Rs. 20, and shall also pay to the owner such compensation for the injury as the magistrate may direct; and such compensation shall be leviable as if it were a fine.

43. [*Repealed by Madras Act III of* 1924.]

Hackney carriage stands.

44. (1) The Commissioner shall appoint a sufficient number of public stands for hackney carriages.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same containing a notice in English and Tamil or other vernacular language stating that the stand is a public stand under this Act, and specifying the number of carriages that may stand upon it.

CHAPTER V.

Lost Property.

Deposit with police of property left in hackney carriages.

45. (1) The owner or driver of every hackney carriage wherein any property is left by any person shall, within eighteen hours, carry such property to the nearest police-station and deposit it with the inspector or other officer on duty, and shall be entitled to a receipt duly signed by the officer taking charge of the same.

Penalty.

(2) Any such owner or driver making default herein shall be liable to a fine not exceeding Rs. 20, or to imprisonment for a period which may extend to one month, or to both.

46. (1) The said officer shall forthwith enter, in a book to be kept for that purpose,—

(*a*) the description of the property ;

(*b*) the name and address of the driver or other person who brings it ;

(*c*) the name and address of the owner of the hackney carriage in which it was left, and the registered number of the carriage ; and

(*d*) the day and hour when the property is brought ;

Police to register particulars of property deposited.

and shall give to the person bringing the property a receipt for the same.

and grant receipt.

(2) Such property shall be delivered to the person who satisfies the Commissioner that it belongs to him upon payment of all expenses incurred by the owner or driver, together with such reasonable sum as the Commissioner may award :

Return of property to owner.

Provided that if the property is not claimed and the ownership established within six months from the date of deposit, the Commissioner may cause the property to be advertised and sold by public auction ; and the proceeds, after deducting the expenses, together with such reasonable sum as the Commissioner may award to the owner or driver, may be forfeited to the Government.

Sale of unclaimed property.

CHAPTER VI.

Prosecutions.

Ex parte disposal of crim nal charges.

47. If in any prosecution under this Act the person charged does not appear as directed by the summons, the magistrate may, upon proof of service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.

Limitation restricting criminal proceedings.

48. (1) No person shall be liable to prosecution for any offence under this Act unless the complaint respecting such offence be made within one month next after the commission of such offence.

Continuing offences.

(2) For the purposes of this section every omission punishable under this Act shall be deemed to be a continuing offence so long as the omission continues.

Compensation for frivolous prosecution.

49. Where the magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, he may direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

CHAPTER VII.

By-laws and Delegations.

Power to make by-laws.

50. The Commissioner may, subject to the approval of the Local Government and after previous publication, make by-laws not inconsistant with the provisions of this Act with regard to—

(*a*) the examination and qualifications of drivers and the conditions under which they may be employed;

(*b*) the description of horses, bullocks or other animals, harness and other things to be used with hackney carriages, the dimensions of such carriages, and the condition in which such carriage and the horses, bullocks or other animals, harness and other things used therewith shall be kept;

(*c*) the inspection of the premises on which any such carriages, horses, bullocks or other animals, harness and other things are kept;

(*d*) the protection of weak, lame and sickly horses, bullocks or other animals;

(*e*) the publication of a list of fares and table of distances and the regulation of the amount and weight of luggage to be carried with or without additional charge; and

(*f*) generally for carrying out the purposes of this Act:

Provided that such by-laws shall not take effect until the expiration of one month from the date of their publication.

Penalty for breach of by-laws.

51. Whoever infringes any by-law shall, on conviction before a magistrate, be liable to a fine not exceeding twenty rupees.

Delegation of Commissioner's functions in Madras.

52. Subject to the control of the Local Government the Commissioner may delegate to any Deputy or Assistant Commissioner all or any of his functions under this Act in respect of the whole or any part of the City of Madras.

CHAPTER VIII.

EXTENSION OF THE ACT.

53. Upon the extension of this Act to any town or place under sub-section (*3*) of section 1 the Local Government shall appoint persons by name or by official designation to perform the functions of the Commissioner under this Act. Discharge of Commissioner's functions in mufassal.

MADRAS ACT No. I OF 1913.[1]

[THE MADRAS ABKARI (AMENDMENT) ACT, 1913.]

[*26th April*, 1913 ; *29th May*, 1913].

Madras, I of 1886.

An Act to amend the Madras Abkari Act, 1886.

WHEREAS it is expedient to amend the Madras Abkari Act, 1886 ; It is hereby enacted as follows :— Preamble.

Ibid.

1. This Act shall be called the Madras Abkari (Amendment) Act, 1913. Short title.

2. Unless there is something repugnant in the subject or context the sections declared to be amended by this Act are those of the Madras Abkari Act, 1886. Interpretation clause.

3. In section 3 the following amendments shall be made :— Amendment of section 3.

(i) In sub-section (8) the words " whether it is denatured or not " shall be added at the end.

(ii) The following explanation shall be added to sub-section (8) :—

[*Not printed. See footnote No.* 2 *on p.* 383 *supra.*]

(iii) In sub-section (13) the words " or the coca plant (*Erythroxylon Coca*) " shall be inserted after the words " the hemp plant (*Cannabis Sativa or Indica*)."

(iv) The following shall be inserted as sub-section (17 A) :—

[*Vide p.* 385 *supra.*]

(v) In sub-section (18) the words " prepared or blended " shall be substituted for the words " or prepared."

(vi) The following shall be inserted as sub-section (18 A) :—

[*Vide p.* 385 *supra.*]

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1912 Pt. IV, p. 600 ; for Report of Select Committee, *see ibid*, 1913. Pt. IV p. 71 ; and for Proceedings in Council, *see ibid*, 1912, Pt. IV, p. 654 ; *ibid*, 1913, Pt. IV, p. 380.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of 17th June, 1913.

(vii) The following shall be added as sub-section (21) :—

[*Vide p.* 385 *supra.*]

Amendment of section 12.

4. In section 12 the following amendments shall be made :—

(i) The words "or coca plant (*Erythroxylon Coca*)" shall be inserted after the words "hemp plant (*Cannabis Sativa or Indica*)."

(ii) The following paragraph shall be inserted between the second and third paragraphs, viz :—

[*Vide p.* 389 *supra.*]

(iii) The word "and" at the end of paragraph 5 shall be omitted, and the words "no liquor shall be bottled for sale ; and" shall be inserted between the fifth and sixth paragraphs.

(iv) The following shall be added at the end of the section :—

[*Vide p.* 389 *supra.*]

Amendment of section 13.

5. In section 13 the following amendments shall be made :—

(i) The words "or specially with regard to persons, places or time" shall be substituted for the words "for the whole Presidency or for any local area."

(ii) In proviso (2) the words "other than denatured spirit" shall be inserted after the words "foreign liquor," and the word "of" shall be substituted for the words "purchased by."

Additional section 13-A.

6. The following section shall be inserted as section 13-A :—

[*Vide p.* 390 *supra.*]

Amendment of section 15.

7. In section 15 the following amendments shall be made :—

(i) The words "or to any officer whom the Commissioner may generally or specially authorize" shall be added after the words "intoxicating drugs" at the end of the first paragraph.

(ii) The following provisos shall be substituted for the first proviso :—

[*Vide p.* 391 *supra.*]

(iii) In the second proviso the words "by notification" shall be substituted for the words "in like manner," and the words "under such conditions as the Commissioner may prescribe" shall be substituted for the words "in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery."

(iv) The following shall be added at the end of the section :—

[*Vide p.* 391 *supra.*]

8. For section 17 the following section shall be substituted :— Substitution of a revised section for section 17.

[*Vide p.* 392 *supra.*]

9. In section 18 the following amendments shall be made :— Amendment of section 18.

(i) In clause (*a*) the words "a distillery, brewery or warehouse licensed or established under section 12 or section 14" shall be substituted for the words "the distillery or brewery."

In clause (*b*) the words "or issued from a warehouse licensed or established under section 14" shall be added at the end.

(iii) In clause (*f*) the words "import, export or" shall be inserted before the word "transport."

(iv) The following proviso shall be added at the end of the section :—

[*Vide p.* 393 *supra.*]

10. In section 26 the following shall be inserted after the words "non-bailable offence" in clause (*c*) :— Amendment of section 26

[*Vide p.* 395 *supra.*]

11. For section 27 the following section shall be substituted :— Substitution of a revised section for section 27.

[*Vide p.* 395 *supra.*]

12. In section 29 the following amendments shall be made :— Amendment of section 29.

(i) The following shall be substituted for the first eleven words and for clause (*o*) :—

[*Vide pp.* 396–397 *supra.*]

(ii) In clause (*e*) the word "country" shall be omitted.

(iii) Clauses (*l*), (*m*) and (*n*) shall be re-lettered (*p*), (*q*) and (*r*) respectively and the following clauses shall be inserted after clause (*k*) :—

[*Vide p.* 397 *supra.*]

13. In section 30 the words "Collector or" shall be inserted before the word "magistrate" wherever it occurs and the word "obtained" shall be substituted for the words "given by any abkari or police officer or any other person." Amendment of section 30.

14. In section 48 the following shall be added at the end :— Amendment of section 48.

[*Vide p.* 398 *supra.*]

15. In section 55 the following amendments shall be made :— Amendment of section 55.

(i) The semicolon in clause (*c*) shall be omitted and the following shall be added to that clause :—

[*Vide p.* 404 *supra.*]

(ii) Clause (*h*) shall be re-lettered (*i*) and the following clause shall be inserted before it :—

[*Vide p.* 404 *supra.*]

Additional section 55-A.

16. The following section shall be inserted as section 55-A :—

[*Not printed. See footnote No.* 6 *on p.* 404 *supra.*]

Amendment of section 56.

17. In section 56 the words "or being in the employ of such holder and acting on his behalf" shall be inserted immediately after the words "under this Act"; and in clause (*b*) of the same section the words "wilfully does or omits to do anything" shall be substituted for the words "does any act."

Repeal of section 62.

18. Section 62 shall be omitted.

Amendment of section 65.

19. In section 65 the words "or by means" shall be inserted after the words "in respect" in the first paragraph.

Amendment of section 66.

20. In section 66 the following proviso shall be added at the end :—

[*Vide p.* 408 *supra.*]

Amendment of section 67.

21. In section 67 the words and figures "section 55, 56, 57, 58 or 63" shall be substituted for the words and figures "section 56 or section 63."

Substitution of a revised section for section 71.

22. For section 71 the following section shall be substituted :—

[*Vide p.* 409 *supra.*]

Amendment of schedule.

23. The following shall be inserted in the appropriate place in the schedule at the end of the Act :—

Enactment.	Subject.	Extent of repeal.
Act XVI of 1863 ..	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
Act VIII of 1894 ..	The Indian Tariff Act, 1894.	Section 6

MADRAS ACT No. II OF 1913.[1]

[THE MADRAS IRRIGATION CESS (AMENDMENT) ACT, 1913].

[26*th May* 1913 ; 17*th June* 1913.]

An Act to amend the Madras Irrigation Cess Act, 1865.

Preamble.

WHEREAS it is expedient further to amend the Madras Irrigation Cess Act, 1865 ; It is hereby enacted as follows :— VII of 1865.

Short title and duration.

1. This Act may be called the Madras Irrigation Cess (Amendment) Act, 1913 [* * * * * *][2].

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1913, Pt. IV, p. 9 ; for Report of Select Committee, *see ibid*, p. 331 ; and for Proceedings in Council, *see ibid* pp 49, 215, 617, 652.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of 1st July, 1913.

[2] The words "and shall continue in force until the 31st day of December 1920" were omitted by section 2 of the Madras Irrigation Cess (Amendment) Act, 1920 (Madras Act VI of 1920).

Interpretation clause.

2. In this Act the words "estate," "landholder," "revenue year" and "ryot" mean severally an estate, a landholder, a revenue year and a ryot as defined in the Madras Estates Land Act, 1908.

I of 1908.

Amendment of section 1 of Madras Act VII of 1865.

VII of 1865.

3. In section 1 of the Madras Irrigation Cess Act, 1865, before the words "to levy" the following words shall be inserted, namely, "before the end of the revenue year succeeding that in which the irrigation takes place."

Insertion of additional section 1-A.

VII of 1865.

4. After section 1 of the Madras Irrigation Cess Act, 1865, the following section shall be inserted :—

[*Vide p.* 307 *supra.*]

[* * * * *][1]

MADRAS ACT No. I OF 1914.[2]

[THE HINDU TRANSFERS AND BEQUESTS ACT, 1914.]

[14*th February*, 1914 ; 14*th March*, 1914.]

An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons.

Preamble.

WHEREAS it is expedient to declare the rights of persons governed by the Hindu law to make transfers and bequests in favour of unborn persons ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Hindu Transfers and Bequests Act, 1914."

Application and extent.

2. (1) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu law who are domiciled within the limits of the Presidency of Madras.

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act, the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to such date : Provided that nothing contained in this section shall affect *bona fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of the Act.

Explanation.—Hindus governed by the Marumakkatayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu law for the purposes of this Act.

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[1] Section 5 was omitted by Madras Act VI of 1920.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1913, Pt. IV, p. 691 ; for Report of Select Committee, *see ibid.* p. 943 ; and for Proceedings in Council, *see ibid* p. 785.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of 24th March, 1914.

Disposition for the benefit of person not in existence.

[1][3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.]

Limitations and conditions.

[1][4. The limitations and provisions referred to in section 3 shall be the following, namely :—

(*a*) in respect of dispositions by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and IV of 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] XXXIX of 1925.

MADRAS ACT No. II OF 1914.[2]

[THE MADRAS LAND REVENUE ASSESSMENT (AMENDMENT) ACT, 1914.]

[*6th April* 1914 ; *22nd April* 1914.]

An Act to amend the Madras Land Revenue Assessment Act, 1876.

Preamble.

WHEREAS it is expedient that persons other than District Collectors should be authorized to exercise the powers and perform the duties referred to in the Madras Land Revenue Assessment Act, 1876 ; It is hereby enacted as follows :— Mad. Act I of 1876.

Short title.

1. This Act may be called "The Madras Land Revenue Assessment (Amendment) Act, 1914."

Definition of the term "Collector."

2. The words "Collector of the district" and "Collector" in the Madras Land Revenue Assessment Act, 1876, shall include any officer who may hereafter be empowered by the Governor in Council to exercise the functions of a District Mad. Act I of 1876.

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[1]Sections 3 and 4 were substituted for the original sections 3, 4 and 5 by section 11 of the Transfer of Property (Amendment) Supplementary Act, 1929 (XXI of 1929).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Pt. IV, p. 1 ; for Report of Select Committee, *see ibid*, p. 231 ; and for Proceedings in Council, *see ibid*, pp. 138, 688.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of 12th May 1914.

Collector in respect of alienated portions of any permanently-settled estate and shall be deemed to have always included any officer who has heretofore exercised such functions.

IX of 1908.

3. Notwithstanding anything in the Indian Limitation Act, 1908, any person aggrieved— Right of suit regarding acts and orders hereby validated.

(*a*) by the fact of the separate registration between the first day of January 1912 and the commencement of this Act by an officer other than the Collector of the district of any portion of a permanently-settled estate, or

(*b*) by the refusal between the said dates by such officer to register any portion of a permanently-settled estate,

may within 12 months after the commencement of this Act sue in a civil court for a decree that such registration ought not to be made or ought to be made, as the case may be.

MADRAS ACT No. III OF 1914.[1]

[THE MADRAS PROPRIETARY ESTATES' VILLAGE-SERVICE (AMENDMENT) ACT, 1914.]

[*6th April* 1914 ; *26th April* 1914.]

An Act to amend the Madras Proprietary Estates' Village service Act, 1894.

Mad. Act II of 1894.

WHEREAS it is expedient to amend the Madras Proprietary Estates' Village-service Act, 1894 ; It is hereby enacted as follows :— Preamble

1. This Act may be called the Madras Proprietary Estates' Village-service (Amendment) Act, 1914. Short title.

2. In this Act, chapter, section, sub-section or clause means a chapter, section, sub-section or clause respectively of the Madras Proprietary Estates' Village-service Act, 1894. Interpretation clause.

Mad. Act II of 1894.

3. Sub-section (3), sections 6, sections 18, 19, 20, 21, 22, 23, 24, 25, 26 and 28 are hereby repealed Repeal.

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[1]For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Pt. IV p. 3 ; for Report of Select Committee, *see ibid*, p. 5 ; and for Proceedings in Council, *see ibid*, pp. 83, 417.

The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of 12th May 1914.

Amendment of section 2.

4. At the end of the first paragraph of section 2 shall be inserted the words "and may at any time rescind, revoke, amend or vary any such notification."

Amendment of section 4.

5. At the end of the definition of "Proprietor" in section 4 shall be added the following words :—

[*Vide p.* 506 *supra.*]

Amendment of section 6.

6. (1) In sub-section (1) of section 6 the words "in any estate" shall be omitted and for the words "of the estate in which the village or villages is or are situated" shall be substituted the words "or proprietors concerned."

(2) In sub-section (2) of the same section for the word "proprietor" shall be substituted the word "proprietors."

Amendment of section 17.

7. At the end of the first paragraph of section 17 for the words "on or after the date fixed in the notification issued under section 19 for the levy of a village-service cess" shall be substituted the words "from such date as the Government "may notify."

Validity of enfranchisements made between 1st April 1912 and the commencement of this Act.

8. Every enfranchisement purporting to have been made under section 17 between the 1st of April 1912 and the commencement of this Act shall be deemed to have been validly made.

Amendment of section 27.

9. In section 27 for the word and figures "section 19" shall be substituted the words "the provisions of this chapter," and the words "and the payments made along with the permanent assessment shall be credited to the Proprietary Estates' Village-service Fund" at the end of clause (2) shall be omitted.

Amendment of section 29.

10. In section 29 for the word and figures "section 19" shall be substituted the words "the provisions of Chapter III" and the words "from the aforesaid fund of the district in "which the estate is situated" shall be omitted.

Amendment. of section 30.

11. In section 30 for the word and figures "section 19" shall be substituted the words "the provisions of Chapter III."

Amendment of section 31.

12. In section 31, clause (*c*) shall be omitted.

Amendment of section 32.

13. In section 32, clause (viii) and the words "and cess" in clause (ix) shall be omitted.

Substitution of a new section for section 33.

14. For section 33 shall be substituted the following :—

[*Vide p.* 515 *supra.*]

MADRAS ACT No. IV OF 1914.[1]

[THE MADRAS MEDICAL REGISTRATION ACT, 1914.]

[*6th April* 1914 ; *27th April* 1914.]

An Act for the Registration of Medical Practitioners.

WHEREAS it is expedient to provide for the registration of medical practitioners in the Presidency of Madras ; It is hereby enacted as follows :— Preamble.

1. (1) This Act may be called the Madras Medical Registration Act, 1914. Short title.

(2) It extends to the whole of the Presidency of Madras. Extent.

2. The provisions of section 4 shall come into force[2] on such date as the Governor in Council may notify in this behalf. The rest of this Act shall come into force at once. Commencement of Act.

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

(1) "the British Medical Act" means Statute 21 and 22 Victoria, Chapter 90 (The Medical Act), and any Act amending the same ;

(2) "Council" means the Medical Council established by this Act ;

(3) "hospitals," "asylums," "infirmaries," "dispensaries," "lying-in hospitals" mean institutions the methods of treatment carried on in which are those which are approved by the Medical Council established by this Act ;

(4) "prescribed" means prescribed by rules or by-laws made under this Act ;

(5) "registered practitioner" means any person registered under the provisions of this Act.

4. Notwithstanding anything to the contrary in any enactment, rule, by-law or any other provision of law— Privileges of registered practitioners.

(1) No certificate required by law to be given by a medical practitioner or officer shall be valid unless signed by a registered practitioner.

(2) Except with the special sanction of the Governor in Council, no one other than a registered practitioner shall be competent to hold any appointment as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in hospital not supported entirely by voluntary contributions or as medical officer of health.

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1913, Pt. IV, p. 699 ; for Report of Select Committee, *see ibid.* p. 931 ; and for Proceedings in Council, *see ibid*, pp. 370, 786 ; *ibid.* 1914. Pt. IV, pp. 90, 112, 399, 404.

The assent of the Governor-General to this Act was published in the *Fort St. George Gazette* of 12th May, 1914.

2 The provisions of section 4 came into force on 1st June 1916.

Constitution of Medical Council.

5. (1) A Medical Council shall be established for the Presidency of Madras and shall consist of fifteen members including a president and a vice-president to be appointed in the following manner :—

(*a*) the president nominated by the Governor in Council ;

[1][(*b*) one member elected by the Faculty of Medicine of the University of Madras ;

(*bb*) one member elected by the Faculty of Medicine of the Andhra University] ;

(*c*) one member elected by the registered practitioners who are registered under the British Medical Act ;

(*d*) [two members][2] elected by the registered practitioners who are graduates in medicine of the University of Madras [or of the Andhra University ;][3]

(*e*) two members elected by all other registered practitioners ;

(*f*) seven members nominated by the Governor in Council.

(2) The vice-president shall be elected from among the members of the Council in the prescribed manner.

Qualifications of members.

6. No person shall be eligible to be a member of the Council unless he is a registered practitioner.

Provided that in the case of first appointments made under this Act the persons electing the members under clauses (*c*), (*d*) and (*e*) of sub-section (1) of section 5 and the members appointed shall be persons who are qualified to be registered under clauses (*a*) and (*b*) of section 13.

Tenure of office of members.

7. The members of the Council shall hold office for a term of five years and shall be eligible for re-appointment.

Cessation of membership.

8. A member of the Council shall be deemed to have vacated his seat—

(1) on sending his resignation in writing to the president or registrar ;

(2) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council ;

(3) on his absence out of India for six consecutive months;

(4) on removal of his name from the register ;

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1 Clauses (*b*) and (*bb*) were substituted for the original clause (*b*) by section 2 of the Madras Medical Registration (Second Amendment) Act, 1929 (Madras Act XIV of 1929).

The words "two members" were substituted for the words "three members" by *ibid.*

3 The words within square brackets were added by *ibid.*

(5) on his being declared an insolvent by any competent court ;

(6) on expiry of the term mentioned in section 7.

Filling up of vacancies.

9. When the seat of any member becomes vacant, the vacancy shall be filled up by election or nomination, as the case may be, in accordance with the provisions of section 5.

Registrar and other officers.

10. (1) The Council shall appoint a registrar who shall act as secretary of the Council and who shall also act as treasurer, unless the Council shall appoint another person as treasurer. Every person so appointed shall be removable at the pleasure of the Council.

(2) The Council may also employ such other persons as it may deem necessary for the purposes of this Act.

(3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Medical register.

11. It shall be the duty of the registrar to keep a register of medical practitioners and from time to time to revise the register and publish it in the prescribed manner. Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the *Fort St. George Gazette.*

I of 1872.

Meetings of Council.

12. Except as otherwise provided in this Act, no business shall be transacted at a meeting of the Council unless at least seven members are present.

All questions which may come before the Council shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes the member presiding at the meeting shall have a casting vote.

Persons who may be registered.

13. Subject to the provisions of section 14, every person who—

(*a*) is for the time being registered under the British Medical Act ; or

(*b*) is possessed of any of the qualifications described in the Schedule

shall be entitled to be registered on furnishing to the registrar proof of such registration or qualification, whether or not such person practises or intends to practise the allopathic or any other system of medicine :

Provided that the Governor in Council may, after consulting the Council, permit the registration of any person who shall furnish to the registrar proof that he is possessed of a medical degree, diploma or certificate of any University, medical college or school approved by the Council, other than those described in the Schedule :

Provided further that the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies in the opinion of the Council a defect of character or who, after an inquiry at which opportunity has been given to the candidate to be heard in person or by pleader, has been held by the Council to have been guilty of infamous conduct in any professional respect.

Registration fee.

[1][**14** (1)] Every person who applies to be registered under this Act shall pay a registration fee of fifteen rupees.

[1][(2)] Every registered practitioner who applies to the registrar for registration in respect of any additional qualification obtained subsequent to registration under this Act shall pay a fee of five rupees.

[2][(3) Nothing in sub-section (1) or (2) shall be deemed to apply to any person whose name has been registered for the primary or additional qualification, as the case may be, under any Act for the registration of medical practitioners for the time being in force in any part of British India, if the said Act provides for the registration of persons registered under this Act without the payment of any fee for the primary or additional qualification as the case may be.]

Appeal against the decision of registrar.

15. An appeal shall lie to the Council against any order of the registrar under section 13 or section 14. The said appeal shall be preferred within three months from the date of the order appealed against.

Alteration of register by Council.

16. (1) The Council may, if it sees fit, and after giving due notice to the person concerned and inquiring into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about be cancelled or amended.

(2) The Council may direct the removal altogether or for a specified period from the register of the name of any registered practitioner for the same reasons for which registration may be refused by the Council under section 13 and the second proviso thereto shall apply to any inquiry under this section. The Council may also direct that any name so removed shall be restored.

[3][Provided that no medical practitioner shall be removed from the register on the ground of his association, in any professional respect, with a qualified practitioner of Indian

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[1] The first paragraph of section 14 was renumbered as sub-section (1) and the second paragraph as sub-section (2) of section 14 by section 2 of the Madras Medical Registration (Amendment) Act, 1929 (Madras Act X of 1929).

[2] The sub-section was inserted by *ibid.*

[3] The proviso was added by section 2 of the Madras Medical Registration (Amendment) Act, 1932 (Madras Act IX of 1932).

Medicine such as Ayurvedic, Unani and Siddha or an unregistered practitioner if such unregistered practitioner—

(*a*) is possessed of any of the qualifications described in the Schedule, and

(*b*) is not a person whose name the Council has refused to register under the second proviso to section 13 or whose name the Council has removed from the register under this sub-section.

Explanation.—The expression 'qualified practitioner' shall, for the purposes of this proviso, mean 'a practitioner qualified under rules made by the Local Government in this behalf.']

[1][(3) Nothing in sub-section (2) shall relieve a registered practitioner of any obligations or code of ethics which may be imposed upon registered practitioners generally by the Council.]

[1][(4) Any registered practitioner may make an application to the Council for the deletion of his name from the medical register, and the Council may, on such application and subject to such rules as may be made by the Local Government, direct such deletion. Any such practitioner may apply for fresh registration under section 13.]

Procedure in inquiries and appeals.

17. (1) An inquiry under section 13 or section 16 may be held by a committee consisting of three members of the Council elected for the purpose by the Council. The Council or the committee, as the case may be, may at its discretion hold such inquiry in camera. The decision of the committee shall be deemed to be the decision of the Council.

(2) For the purpose of any such inquiry or of any appeal under section 15, the Council or any committee thereof elected as aforesaid shall be deemed to be a court within the meaning of the Indian Evidence Act, 1872; and shall exercise all the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850; and such inquiries and appeals shall be conducted, as far as may be, in accordance with the provisions of section 5 and sections 8 to 20 of the said Public Servants (Inquiries) Act, 1850.

I of 1872.

XXXVII of 1850.

Appeal against the decision of Council.

18. An appeal shall lie to the Governor in Council against every decision of the Council under section 13 or section 16. Such appeal shall be preferred within three months from the date of the Council's decision.

Limiting of jurisdiction of civil courts.

19. No act done in the exercise of any power conferred by this Act on the Governor in Council or the Council or the registrar shall be questioned in any civil court.

[1] Sub-sections (3) and (4) were added by section 2 of the Madras Medical Registration (Amendment) Act 1932 (Madras Act IX of 1932).

Power of Local Government to alter schedule.

20. It shall be lawful for the Governor in Council by notification in the *Fort St. George Gazette* to alter the Schedule :

Provided that no medical degree, diploma or certificate granted in any British Colony or foreign country which does not recognize the medical degrees, diplomas or certificates of a British Indian Government or University shall be included in the Schedule.

Power of Council to call for information regarding efficiency of teaching and attend examinations.

21. The Council shall have power to call on the governing body or authorities of any University, medical college or school included in or desirous of being included in the Schedule,—

(*a*) to furnish such reports, returns or other information as the Council may require to enable it to judge of the efficiency of the instruction given therein in medicine and surgery and midwifery ; and

(*b*) to provide facilities to enable any member of the Council deputed by the Council in this behalf to be present at the examinations held by such University, college or school.

If the said body or authorities refuse to comply with any such demand, the Governor in Council may upon report by the Council remove such University, college or school from the Schedule or refuse to include it in the Schedule.

Control by Local Government.

22. If at any time it shall appear to the Governor in Council that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the Governor in Council may notify the particulars of such neglect, excess or abuse to the Council ; and, if the Council fails to remedy such neglect, excess or abuse within such time as may be fixed by the Governor in Council in this behalf, the Governor in Council may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the Governor in Council may think fit.

Penalty for falsely pretending to be a registered practitioner.

23. Every person who falsely pretends to be a registered practitioner shall, whether any person is actually deceived by such pretence or not, be liable to be punished on conviction by a Presidency Magistrate or a magistrate of the first class with fine that may extend to three hundred rupees.

Power to make rules and by-laws.

24. (1) The Governor in Council may after previous publication make rules for the purpose of carrying out the provisions of this Act.

In particular and without prejudice to the generality of the foregoing provision, the Governor in Council may make rules,—

(i) for the election of members to the Council under sections 5 and 6 ;

(ii) for the election of the vice-president of the Council;

(iii) to regulate the procedure at an inquiry held under section 13 or section 16;

(iv) for the institution, hearing and disposal of appeals under section 15 or section 18;

(v) for the compilation and publication of the register;

(vi) for the disposal of fees received under this Act.

(2) The Council may, with the previous sanction of the Governor in Council, make by-laws,—

(i) for the convening of meetings of the Council;

(ii) for the conduct of business at such meetings;

(iii) for the appointment, control, pay and allowances of the establishment employed under section 10.

THE SCHEDULE.

[1][(1) The degree of Doctor, Bachelor and Licentiate of Medicine, and Master, Bachelor and Licentiate of Surgery of the University of Madras, the Andhra University, the Oosmania University and the Universities of Allahabad, Bombay, Calcutta, Lahore, Lucknow, Mysore and Rangoon.]

(2) A diploma or certificate granted by a British Indian Government or the Government of Ceylon to any person trained in a medical college or school declaring him to be qualified to practise medicine, surgery and midwifery.

[2][(3) The diploma of Fellow and Member and the Licentiate certificate granted by the State Medical Faculty of Bengal and the College of Physicians and Surgeons of Bombay.]

[3][(4) A diploma granted by His Exalted Highness the Nizam's Government to any person trained in the Hyderabad Medical School declaring him to be qualified to practise medicine, surgery and midwifery.]

[4][(5) The diploma of Licensed Medical Practitioner granted by His Highness the Maharaja of Mysore's Medical School.]

[1] Clause (1) was substituted by Notification No. 1451, published at page 529 of Part I-A of the *Fort St. George Gazette*, dated 20th November 1934.

[2] Clause (3) was added by Notification No. 26, published at page 725 of Part I-A of the *Fort St. George Gazette*, dated 19th December 1916.

[3] Clause (4) was added by Notification No. 27, published at page 228 of Part I-A of the *Fort St. George Gazette*, dated 26th March 1918.

[4] Clause (5) was added by Notification No. 15, published at page 9 of Part I of the *Fort St. George Gazette*, dated 6th January 1925.

MADRAS ACT No. V OF 1914. [1]

[THE CANALS AND PUBLIC FERRIES (AMENDMENT) ACT, 1914.]

[21*st June* 1914 ; 14*th July* 1914.]

An Act to amend the Canals and Public Ferries Act, 1890.

Preamble. WHEREAS it is expedient to amend the Canals and Public Ferries Act, 1890 ; It is hereby enacted as follows :— Mad. Act II of 1890.

Short title. **1.** This Act shall be called the Canals and Public Ferries (Amendment) Act, 1914.

2. The following proviso shall be added to section 5 of the Canals and Public Ferries Act, 1890 :— Mad. Act II of 1890.

[*Vide p.* 490 *supra.*]

MADRAS ACT No. VII OF 1914. [2]

[THE MADRAS DEPUTY COLLECTORS ACT, 1914.]

[14*th December*, 1914 ; 6*th January*, 1915.]

An Act to amend the Madras Uncovenanted Officers Act, 1857.

Preamble. WHEREAS it is necessary to define more clearly the powers of Deputy Collectors appointed under the Madras Uncovenanted Officers Act, 1857 ; It is hereby enacted as follows :— VII of 1857.

Short title. Extent. **1.** (1) This Act may be called the Madras Deputy Collectors Act, 1914.

(2) It extends to the whole of the Presidency of Madras.

Repeal. **2.** Section 3 of the Madras Uncovenanted Officers Act, 1857, is hereby repealed. VII of 1857

Placing Deputy Collectors in charge of divisions of districts. **3.** Subject to the control of the Governor in Council, a Deputy Collector appointed under the Madras Uncovenanted Officers Act, 1857, may be placed by the District Collector in charge of a particular division of the district to which the Deputy Collector has been appointed. VII of 1857.

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[1] For Statement of Objects and Reasons *see Fort St. George Gazette*, 1914, Pt. IV. p. 512 ; and for Proceedings in Council, *see ibid* p. 810.

The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of 28th July 1914.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Pt, IV, p. 949 ; and for Proceedings in Council, *see ibid*, pp. 1047, 1165

The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of 12th January, 1915.

4. The expressions "Subordinate Collector" and "Assistant Collector" in section 3 of Madras Regulation VII of 1828 shall include and be deemed always to have included a Deputy Collector appointed under the Madras Uncovenanted Officers Act, 1857. VII of 1857.

Deputy Collectors to have all the power of Subordinate and Assistant Collectors.

MADRAS ACT No. VIII OF 1914.[1]

[THE MADRAS DECENTRALIZATION ACT, 1914.]

[*14th December*, 1914 ; *15th January*, 1915.]

An Act to facilitate the administration of certain enactments.

WHEREAS it is expedient to facilitate the administration of certain enactments ; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Madras Decentralization Act, 1914. Short title.

2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof. Amendment of certain enactments.

3. Any appointment, notification, order, scheme, rule, form or by-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or by-law made or issued by such new authority. Saving of orders, etc., issued by previous authorities.

THE SCHEDULE.

Year.	Number	Short title.	Amendments.
1817	VII	The Madras Endowments and Escheats Regulation, 1817.	(1) In section 3 *omit* the words "with the sanction of Government." (2) *Add the* following as section 17 :— "17. Notwithstanding anything hereinbefore contained, the Governor in Council may delegate power to dispose of buildings under section 4 or of escheats under section 6 to the Board of Revenue or to any officer not below the rank of an officer in charge of the revenue administration of a division of a district."

1 For Statement of Objects and Reasons, *see Fort St. Goerge Gazette*, 1914, Pt. IV, p. 509 ; and for Proceedings in Council, *see ibid* pp. 807, 042.
The assent of the Governor General to this Act was published in the *Fort St. George Gazette* of 26th January, 1915.

SCHEDULE—*cont.*

Year.	Number	Short title	Amendments
1864	II	The Madras Revenue Recovery Act, 1864.	(1) *Delete* section 46. (2) At the end of section 57 *add* the following paragraph :— "A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of a Deputy Tahsildar."
1865	VII	The Madras Irrigation Cess Act, 1865.	In section 1 (*b*) *for* the words "in the opinion of the Collector, subject to the control of the Board of Revenue and of the Government" *substitute* "in the opinion of the revenue officer empowered to charge water-cess, subject to the control of the Collector, the Board of Revenue and the Government."
1866	II	The Madras Cattle-disease Act, 1866.	In section 1 after the words "Governor in Council" *add* "or subject to his control the Board of Revenue."
1876	I	The Madras Land Revenue Assessment Act, 1876.	*Section* 2.—*Omit* the words "subject to the sanction laid down in section 46 of that Act."
1882	V	The Madras Forest Act 1882.	(1) In section 7 *for* "Governor in Council" *read* "Board of Revenue." (2) In the proviso to section 18 *for* "Governor in Council" *read* "Board of Revenue." (3) In section 24 *for* "with the previous sanction of the Governor General in Council" *read* "subject to the control of the Governor General in Council."
[1] *	*	*	* * * * * *]
[2] *	*	*	* * * * * *]
1885	III	The Madras, Outports Landing and Shipping Fees Act, 1885.	*Omit* the proviso at the end of section 4.
1889	IV	The Madras Salt Act, 1889.	(1) In section 3 (i), 38 and 39 *for* "the Governor in Council" *read* "the Commissioner" and in sections 11 and 22 *for* "the Governor in Council" *read* "he" (2) *For* the first two lines of section 43, *substitute* "Subject to any rules which may be made by the Governor in Council under section 85 and the Commissioner under section 85-A no salt shall be removed." (3) In section 85 *omit* clauses (*b*), (*c*), (*e*) and (*g*) and re-number the remaining clauses as (*a*) to (*e*).

[1] The entry relating to the Madras District Municipalities Act, 1884, was repealed by section 2 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

[2] The entry relating to the Madras Local Boards Act, 1884, was repealed by section 2 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920).

SCHEDULE—*cont.*

Year.	Number.	Short title.	Amendments.
1889—*cont.*	IV *cont.*	The Madras Salt Act, 1889—*cont.*	(4) *Substitute* the following *for* clause (*a*) of section 85 :— "The grant of licenses and permits and the particulars and conditions to be contained therein except licenses under Chapter IV." (5) After section 85 *insert* a new section, namely,— "85-A. Subject to the control of the Governor in Council, the Commissioner may from time to time make rules consistent with this Act for regulating the following matters, namely,— (*a*) the registry and acceptance of transfers and relinquishments of licenses ; (*b*) the manufacture, storage, sale and removal of salt or saltpetre in and from salt factories ; (*c*) the manufacture and refinement of saltpetre and (*d*) the routes by which salt shall be taken to a preventive station. (6) *For* the words "of any rules framed by the Governor in Council under clauses (*c*), (*e*) and (*g*) of section 85" occurring in section 75, *substitute* "of any rules framed by the Commissioner under clauses (*b*), (*c*) and (*d*) of section 85-A.
1890	II	The Canals and Public Ferries Act, 1890.	*Add* the following as a new section 21 :— "21. The Governor in Council may delegate all or any of his powers under sections 5, 10, 11, 12, 13 and 15 to any officer not below the rank of District Collector or Superintending Engineer."
1897	IV	The Madras Survey and Boundaries Act, 1897.	[* * * *][1]
1905	III	The Madras Land Encroachment Act, 1905.	(1) *Sections* 3 and 5.—After the word "Collector" *add* the words "or subject to his control the Tahsildar or Deputy Tahsildar." (2) *Section* 4.—*Delete* the word "Collector's." (3) *Section* 7.—After the word "Collector" *add* the words "or Tahsildar or Deputy Tahsildar as the case may be." (4) *Section* 10.—For the existing section, substitute "10. (1) An appeal shall lie (*a*) to the Collector from any decision or order passed by a Tahsildar or

[1] The amendments relating to the Madras Survey and Boundaries Act, 1897 have not been printed as the Act has been repealed by Madras Act VIII of 1923.

SCHEDULE—*cont.*

Year.	Number.	Short title.	Amendments.
1905—*cont.*	III—*cont.*	The Madras Land Encroachment Act, 1905—*cont.*	Deputy Tahsildar under this Act, and (*b*) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (*c*) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar, Tahsildar or Collector under this Act, and the Board of Revenue or the Local Government may revise any decision or order passed by any officer under this Act. "(2) Pending the disposal of any appeal or petition for revision under this Act, the Collector, the District Collector, the Board of Revenue or the Local Government, as the case may be, may suspend the execution of the order appealed against or sought to be revised."