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GOVERNMENT OF MADRAS
LEGAL DEPARTMENT

THE MADRAS CODE

IN FOUR VOLUMES

Volume IV

Unrepealed Madras Acts, 1924–1939
with a general index

Sixth Edition

MADRAS,
PRINTED BY THE SUPERINTENDENT
GOVERNMENT PRESS

1941

Price, Rs. 5-4-0

P R E F A C E

This volume contains the Unrepealed Madras Acts from 1924 to 1939 both years inclusive. The Acts are printed as modified up to the 31st December 1939. In the case of the Andhra University Act, 1925 (Madras Act II of 1926), the Madras University (Amendment) Act, 1929 (Madras Act XII of 1929), and the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930), the amendments made by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940, have been incorporated.

A general index to the four volumes of the sixth edition of the Madras Code is also added at the end of this volume.

OOTACAMUND, }
26th May 1941. }

P. APPU NAIR,
Secretary to Government,
Legal Department.

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MADRAS ACT No. II OF 1924.¹

[THE TUTICORIN PORT TRUST ACT, 1924.]

[27th May 1924.]

WHEREAS it is expedient to make provision for the regulation, conservancy and improvement of the port of Tuticorin and WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

1. This Act may be called the Tuticorin Port Trust Act, Short title. 1924.

2. This Act shall come into force on such date or dates as the ¹[Provincial Government] may, by notification, direct. Commence- ment.

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

- (1) " Board " means the Trustees of the Port of Tuticorin appointed under this Act ; " Board."
- (2) " Chief Officer of Customs " denotes the Chief Executive Officer of Customs for the Port of Tuticorin for the time being ; " Chief Officer of Customs."
- (3) " Goods " means and includes every kind of movable property ; " Goods."
- (4) " Land " includes the bed of the sea below high water-mark ; " Land."
- (5) " 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 ; " Master."
- (6) " 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 ; " Owner."
- (7) " Pier " includes any stage, stairs, landing-place, hard, jetty, landing stage, floating barge or pontoon, and any bridges or other works connected therewith ; " Pier."
- (8) " Port " means the port of Tuticorin within such limits as may from time to time be defined by the ²[Provincial Government] for the purposes of this " Port."

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated 20th November 1923, page 147.

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter I.—Preliminary. Chapter II.—The Board of Trustees.)

Act by notification in the ¹ [Official Gazette] and until a notification is so issued, within such limits as may have been defined by the Government under the provisions of the Indian Ports Act, 1908 ;

XV of 1908.

"Port Trust Security."

(9) "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 ;

"Pre-scribed."

(10) "Prescribed" means prescribed by rules or regulations or by-laws made under this Act ;

"Rate."

(11) "Rate" includes any toll, due, rent, rate or charge leviable under this Act ;

"Vessel."

(12) "Vessel" denotes anything made for the conveyance by water of human beings or of property ;

"Wharf."

(13) "Wharf" includes 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.

CHAPTER II.—THE BOARD OF TRUSTEES.

Imposition of duty of working the Act on a Board.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called "The Trustees of the Port of Tuticorin," 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.

Constitution of the Board.

5. (1) The Board shall consist of such number of Trustees, not being less than nine or more than thirteen including the Chairman and Vice-Chairman, as the ² [Provincial Government] may notify. Provided that the Chairman or Vice-Chairman, if absent on leave for more than a fortnight and if another Chairman or Vice-Chairman is appointed to act for him, shall cease to be a Trustee and shall, on return to duty, again become a Trustee.

(2) Not less than one-third of the number of the Trustees shall be Indians, of whom two shall be persons engaged in sea-borne trade at Tuticorin and not more than one-third shall be Government officials.

Explanation.—For the purpose of this section, neither the Chairman nor the Vice-Chairman will be reckoned as a Government official unless he is such otherwise than in virtue of the office of Chairman or Vice-Chairman, as the case may be.

¹ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government" by *ibid.*

(Chapter II.—The Board of Trustees.)

6. (1) The Chairman and Vice-Chairman shall be appointed by the ¹ [Provincial Government], provided one of them at least shall be an Indian. Of the remaining Trustees three shall be elected by the members for the time being of the Tuticorin Chamber of Commerce,² [three by the members for the time being of the Indian Chamber of Commerce, Tuticorin,] and two by the members for the time being of the Tuticorin Municipal Council ³ [at meetings of the Chambers and Council] held in accordance with the rules in force.

Appointment of Chairman and Vice-Chairman, election of Trustees and appointment of nominated Trustees.

(2) A return of the name of every person elected as Trustee shall be made to the ¹ [Provincial Government] by the Chairman of the Chamber or Council concerned.

(3) The remaining Trustees shall be appointed by the ¹ [Provincial Government] with due regard to the provisions contained in sub-section (2) of section 5.

7. The names of persons appointed or elected as Trustees shall be published in the ⁴ [Official Gazette] and the *Tinnevely District Gazette*.

Publication of names of Trustees.

8. (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 ¹ [Provincial 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 or Vice-Chairman who may, subject to the sanction of the ¹ [Provincial Government], be permitted to hold any of the offices under the Board referred to in section 28, or
 - (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.

Disqualifications for office of Trustee.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were inserted by section 2 of the Tuticorin Port Trust (Amendment) Act, 1927 (Madras Act III of 1928).

³ These words were substituted for the words "at a meeting of the Chamber or Council" by *ibid.*

⁴ These words were substituted for the words "*Fort St. George Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees.)

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 40 shall have been relinquished under section 42, or
- (f) not being an Indian by birth, is domiciled in any British possession or colony as defined in the Interpretation Act of 1889, the laws of which do not confer or recognize rights and privileges in respect of resident Indians which are equal to those conferred or recognized in respect of other residents :

Provided that the decision of the ¹ [Provincial Government] shall be final as to whether the conditions of the clause are fulfilled.

(2) Any Trustee who—

- (a) becomes disqualified for any of the aforesaid reasons, or
- (b) refuses to act or becomes incapable of acting, or

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees.)

(c) fails to attend, without the permission of the Board previously obtained, three consecutive ordinary meetings of the Board, or
 (d) is absent from the meetings of the Board for a period exceeding six consecutive months,
 shall cease to be a Trustee.

9. The Chairman and Vice-Chairman shall hold office during the pleasure of the ¹ [Provincial Government]. The remaining Trustees shall hold office for a term of two years from the date of election or appointment, as the case may be, but the Board may at any time accept the resignation of any Trustee.

Term of office of Chairman, Vice-Chairman and Trustees.

10. The first elective Trustees shall be elected, and the first Chairman, Vice-Chairman and nominee Trustees shall be nominated on such dates as may be notified.

First election of Trustees and first appointment of Chairman, Vice-Chairman and nominated Trustees.

11. Any person ceasing to be a Trustee shall, unless disqualified under sub-section (1) of section 8, be eligible for re-election or re-appointment.

Eligibility of Trustees for re-election or re-appointment.

12. On the occurrence of a vacancy in the office of a Trustee elected under section 6, the vacancy shall be filled up within one month by the Chamber of Commerce or Municipal Council as the case may be, in the manner provided therein. If the Chairman, Vice-Chairman or any other Trustee appointed under section 6 ceases to hold office, the ¹ [Provincial Government] may appoint a Chairman, a Vice-Chairman or a Trustee, as the case may be.

Election or appointment of Chairman, Vice-Chairman or Trustee in vacancy.

13. If a Trustee is not elected on the date notified under section 10 or within the period allowed by section 12, the ¹ [Provincial Government] may appoint a Trustee and the person so appointed shall be deemed to be an elected Trustee.

Nomination of elected Trustees by Provincial Government in default of election.

14. The ¹ [Provincial Government] may from time to time grant to the Chairman or Vice-Chairman such leave of absence as they may deem fit, and any person appointed by the ¹ [Provincial Government] to act for the Chairman or Vice-Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman or Vice-Chairman, as the case may be.

Grant of leave of absence to Chairman or Vice-Chairman.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees.)

Appoint-
ment of
acting
Trustee.

15. (1) When any Trustee departs from Tuticorin with the intention of being absent for a longer period than three months, a person shall be elected or appointed in the manner provided in section 6 to act in the place of such absent Trustee until he returns to Tuticorin, 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.

(2) If any question arises whether any Trustee departed with such intention as is referred to in sub-section (1) the decision of the ¹ [Provincial Government] on the question shall be final.

Remunera-
tion to
Chairman or
Vice-
Chairman
and acting
Chairman
or Vice-
Chairman.

16. The ¹ [Provincial Government] may from time to time determine the remuneration, if any, to be paid as salary, leave allowances or other allowances to the Chairman or Vice-Chairman and to the person appointed under section 14 to act for the Chairman or Vice-Chairman during his absence on leave and may prescribe any conditions and restrictions upon and under which such remuneration shall be payable.

Fees payable
to Chairman,
Vice-Chair-
man and
other Trus-
tees.

17. The ¹ [Provincial Government] may prescribe from time to time the fees, if any, to be paid to the Chairman, Vice-Chairman and other Trustees for attendance at meetings and to prescribe conditions and restrictions upon and under which such fees shall be payable.

Provisions
concerning
Board's pro-
ceedings.

18. The following provisions shall be observed with respect to the proceedings of the Board, namely :—

Meetings,
etc., for
transaction
of business.

(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
monthly
meetings.

(a) that a meeting shall be held once at least in every month ;

Special meet-
ings.

(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 ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees)

- (d) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, or the Vice-Chairman in his absence, and if and while both are absent, by such one of the Trustees present as may be chosen by the meeting ; President at meetings.
- (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 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) that the President may, with the consent of any meeting, adjourn it ; Adjournment of meetings.
- (i) that a copy of the minutes of every meeting of the Board shall, as soon as conveniently may be, be sent for publication in the *Tinnevelly District Gazette* at the cost of the Board and a copy of the minutes shall also within three days of every meeting be transmitted to such Secretary to the ¹ [Provincial Government] as may from time to time be appointed to receive the same. Transmission of minutes to Government and their publication in gazette.
- (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 may be defined by the Board. The Board may at any time alter the constitution of or discontinue any such Committee. Appointment of Committees by Board.
- (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. Chairman at meetings of Committees.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees.)

- Meetings of Committees.** (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.
- Decisions of questions at meetings of Committees.** (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.
- Quorum in Committees.** (6) No business shall be transacted at any such meeting unless at least three of the members of the Committee are present throughout such meeting.

Restriction on power of Trustees to vote or discuss matters in which they are interested. 19. (1) 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.

(2) If objection is made that any Trustee has in any question before the meeting such interest as is referred to in sub-section (1), the objection shall be considered and decided by the other Trustees in such manner as may be prescribed by the ¹ [Provincial Government]. The decision of the other Trustees shall be final.

(3) If objection is made to the Chairman that a Trustee voted on or took part in the discussion of any question contrary to the provisions of sub-section (1), the objection, unless, in pursuance of the resolution, a right in a third party has been created, shall be inquired into and decided in accordance with such rules as may be prescribed by the ¹ [Provincial Government], and such decision shall be final. Pending such decision the resolution on the question shall not be given effect to. If the decision is that the Trustee voted or took part contrary to the provisions of sub-section (1), the resolution on the question shall not be given effect to.

Validation of acts and proceedings. 20. No act or proceeding of the Board or of any Committee or of any person acting as Chairman or Vice-Chairman shall be deemed to be invalid by reason only of some defect in the establishment of the Board or Committee or on the ground that any Trustee was disqualified for the office or by reason of such act having been done during the period of any vacancy in the office of Chairman or Vice-Chairman or of any Trustee.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—The Board of Trustees. Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman.)

21. The Board may, by resolution in writing, with the sanction of the ¹ [Provincial Government], determine which of the powers and duties by this Act conferred or imposed upon the Board may be exercised and performed by the Chairman or Vice-Chairman. Delegation of powers to Chairman or Vice-Chairman.

22. It shall be the duty of the Chairman— Duties of Chairman.

- (1) to attend every meeting of the Board unless prevented by sickness or other reasonable cause ;
- (2) to exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ;
- (3) subject to the regulations prescribed under sections 25 and 98 and to the schedule for the time being in force framed by the Board under section 24, to dispose of all questions relating to the service of the officers and servants of the Board, and their pay, privileges and allowances :

Provided that, subject to the control of the ¹[Provincial Government] the Chairman may delegate all or any of these duties to the Vice-Chairman as may seem good to him from time to time.

23. Notwithstanding anything contained in this chapter, the ¹ [Provincial Government] may by notification direct that the Board shall elect, in such manner as may be prescribed, one of its Trustees as Vice-Chairman. Such Vice-Chairman shall hold office for the remainder of his term as Trustee. Power to Provincial Government to direct that Vice-Chairman be elected. The provisions of sections 14 and 16 shall not apply to a Vice-Chairman elected under this section.

CHAPTER III.—OFFICERS AND SERVANTS OTHER THAN THE CHAIRMAN AND VICE-CHAIRMAN.

24. The Board shall, from time to time, prepare and sanction a schedule of the staff of officers other than the Chairman and Vice-Chairman 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. Schedule of Board's staff.

Explanation.—Artizans, porters and labourers, and suppliers of porters and labourers are not officers and servants within the meaning of this section or of section 25 or 27.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman.)

- Power to frame regulations regarding leave,
absentee allowances,
acting allowances,
length of service,
pensions, etc., and
contributions to provident fund,
pensions in the case of subordinates injured or who died while in the service of the Board.
25. (1) The Board may, from time to time, frame regulations—
- (a) for regulating the grant of leave to the officers (other than the Chairman or Vice-Chairman) and servants of the Board ;
 - (b) for authorizing the payment of allowances to the said officers and servants, or to any of them, whilst absent on leave ;
 - (c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;
 - (d) for regulating the period of service of all such officers and servants ;
 - (e) for determining the conditions under which such officers and servants or any of them may become entitled, on retirement, to pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;
 - (f) for authorizing the payment of contributions at such rates and subject to such conditions as the Board may prescribe 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 ¹ [Provincial Government], for the benefit of such officers and servants ;
 - (g) 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 ;
 - (h) and generally for the regulation of similar matters.

(2) The regulations framed under clauses (e), (f) and (g) of sub-section (1) shall be subject to the approval of the ¹ [Provincial Government].

(3) Subject to the provisions of section 100, all pensions, contributions and allowances mentioned in this section shall be chargeable to the general fund of the Board.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman. Chapter IV.—Property of the Board.)

26. Notwithstanding anything contained in sections 24 and 25, the Board may, subject to the sanction of the ¹ [Provincial Government], frame regulations of the nature mentioned in clauses (e) to (g) of section 25 for the benefit of artizans, porters and labourers and the suppliers of porters and labourers ; and subject to the provisions of section 100 all pensions, contributions and allowances payable under any such regulation shall be chargeable to the general fund of the Board.

Power to frame regulations for artizans, porters, etc.

27. (1) Subject to the regulations prescribed under section 25 and the schedule for the time being in force framed by the Board under section 24, 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 or Vice-Chairman in such cases and subject to such restrictions as may be determined by the ¹ [Provincial Government] and in every other case by the ¹ [Provincial Government].

Power to appoint, punish or grant leave to officers and servants.

(2) In the case of punishments inflicted by the Chairman or Vice-Chairman an appeal shall lie to the Board.

(3) 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, in the case of officers appointed by the ¹ [Provincial Government] lie with the ¹ [Provincial Government] and in all other cases with the Board.

Power of dispensing with services or permitting retirement of officers or servants.

28. Every order or regulation made by the Board under section 24, 25 or 27 shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of the ¹ [Provincial Government].

Prior sanction of Provincial Government to orders or regulations of Board.

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.

29. On the coming into force of the whole of this Act, the several immovable properties specified in Schedule I and all movable property held by or vested in the Tuticorin Port Conservancy Board shall vest in the Board but subject to all charges and liabilities affecting the same.

Property vested in Board.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Property of the Board. Chapter V.—Works and Services.)

Power to acquire, hold or alienate property.

30. (1) Subject to the provisions herein contained the Board shall, for the purpose of this Act, have the power to acquire and hold immovable or movable property, whether within or without the limits of the port, and also power to lease or sell any immovable or movable property which may have vested in or been acquired by it.

(2) Every acquisition of immovable property, not being an acquisition from the ¹ [Crown], every sale and every lease for a term exceeding ten years of immovable property, shall be made with the previous sanction of the ² [Provincial Government].

Application of Land Acquisition Act.

31. When any immovable property is required for the purposes of this Act, the ² [Provincial 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, I of 1894. when so acquired, shall, on payment by the Board of the compensation awarded and all costs connected with its acquisition, be deemed to be vested in the Board.

CHAPTER V.—WORKS AND SERVICES.

Power to execute works and provide appliances.

32. The Board may execute such works and provide such appliances as it may determine to be necessary or expedient for the purposes of the port.

General nature of works to be executed or appliances to be provided.

33. Such works and appliances may include—

- (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 ;
- (2) railways, tramways, locomotives, rolling stock, sheds, warehouses and other accommodation for passengers and goods and other appliances within the port for carrying passengers and for conveying, receiving and storing goods landed, or to be shipped or otherwise ;
- (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 ;

¹ This word was substituted for the words "Secretary of State for India in Council" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid*.

(Chapter V.—Works and Services.)

- (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 transshipping passengers or goods under section 40 ;
- (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.

34. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in seagoing vessels, the Board may, with the previous sanction of the ¹ [Provincial Government], by a notification published in three consecutive issues of the ² [Official Gazette] and one issue of the *Tinnevely District Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping or for landing or for shipping, as the case may be, goods from and in seagoing vessels.

Seagoing vessels compelled to use wharves, etc.

From and after such publication, the Board may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any seagoing vessel within the port which has not commenced

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter V.—Works and Services.)

to discharge cargo, or which, being about to take in cargo, has not commenced to do so. In making such order the Board shall have regard, as far as possible, to the convenience of such vessel and of the shippers, in respect of the use of any particular wharf, quay, stage, jetty or pier.

If accommodation sufficient, all seagoing vessels compelled to use wharves, etc.

35. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of the ¹ [Provincial Government] by an order published in three consecutive issues of the ² [Official Gazette] and one issue of the *Tinnevelly District Gazette* direct that no goods shall be landed or shipped from or in any seagoing vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Power to order vessels not to come alongside of, or to be removed from wharves, etc.

36. Any officer appointed by the Board in this behalf may, in cases of emergency, or for any reason which appears to him sufficient by notice in writing, order the master or owner of any vessel not to bring such vessel alongside of, or to remove such vessel from, any wharf, quay, stage, jetty or pier belonging to the Board, and, if such notice is not obeyed, the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such wharf, quay, stage, jetty or pier :

Provided that, in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice as aforesaid on the master or owner of the vessel.

Power to Provincial Government to exempt from obligation to use wharves, to, and

37. Notwithstanding anything contained in sections 34 and 35, the ¹ [Provincial Government] may, by notification in the ² [Official Gazette] and the *Tinnevelly District Gazette*, from time to time, permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner during such period subject to such payments and on such conditions as they may think fit, and otherwise grant exemption from the provisions of such sections.

The ¹ [Provincial Government] may also, by like notification, cancel or modify any such notification.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter V.—Works and Services.)

The ¹[Provincial Government] may also at any time require that any vessel belonging to or in the service of His Majesty ²[. . .] shall be permitted to come alongside of any wharf, quay, stage, jetty or pier belonging to the Board in preference to all other vessels at the time in port ; and it shall be incumbent on the Board to give effect to any such requisition.

to require preference to be given to Government vessels.

38. The ¹[Provincial 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 its general fund.

Power to order survey or examination of works.

39. If, at any time, the Board allows any work or appliance constructed or provided by or vested in it to fall into disrepair, or does not, within a reasonable time, complete any work commenced by it or included in any estimate sanctioned by the ¹[Provincial Government], or does 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 ¹[Provincial Government] for the purposes of this Act, the ¹[Provincial 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 does not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in the Local Authorities

Power of Provincial Government to restore or complete works at the cost of Board.

of 1914. Loans Act, 1914.

40. (1) The Board shall, according to its powers, provide all reasonable facilities for and shall have power to undertake the following services :—

Performance of services by the Board.

- (a) landing, shipping, or transshipping 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 ¹[Provincial Government] may see fit to impose ; and

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² The words " or the Government of India " were omitted by Schedule II, *ibid.*

(Chapter V.—Works and Services.)

(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.

IX of 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), which it shall have undertaken; 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 42.

(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 ¹[Provincial Government].

After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or 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.

Responsi-
bility of
Board for
loss, etc.,
of goods.

41. (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. IX of 1890.
IX of 1872.
Provided that, till the receipt mentioned in sub-section (3) of section 40 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 or damage shall have been given within one month of the date of the receipt given for the goods under sub-section (3) of section 40.

Relinquish-
ment of
services
subject to
the control
of the
Provincial
Government.

42. (1) The Board may, subject to the sanction of the ¹[Provincial Government] and to such conditions as the ¹[Provincial 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 40 to an approved person, or

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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(b) enter into an agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 41.

(2) Every agreement entered into under this section shall be in writing and signed by or on behalf of the parties concerned.

(3) No person to whom the performance of any service specified in clause (a) or (b) of sub-section (1) of section 40 is relinquished shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under section 44, section 45 or section 46 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 44, 45 and 46 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 41.

43. (1) Any person to whom any or all of the services under clauses (a) and (b) of sub-section (1) of section 40 has or have been relinquished under section 42, 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 prescribed by the ¹ [Provincial Government].

Performance of services by persons to whom the services have been relinquished by the Board.

(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.

IX of 1872

CHAPTER VI.—LEVY AND RECOVERY OF RATES.

44. 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 42 or partly by one and partly by the other :—

Scale of rates.

- (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 ;

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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- (c) crantage or portorage 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.

45. 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 place as aforesaid by vessels or boats ;
- (b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place as 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.

46. The Board may frame a consolidated scale of rates for any combination of the services specified in section 44 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 45.

Prior sanction of Provincial Government to such scales.

47. (1) Every scale and every statement of conditions framed by the Board under section 44, section 45, or section 46 shall be submitted to the ¹[Provincial Government] for sanction ; and, when so sanctioned and published in the ²[Official 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 ¹[Provincial Government], remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section. 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 two hundred rupees in each case.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

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(3) In respect of any item of any scale of rates framed under the powers conferred by section 44, section 45 or section 46 the Board, with the previous sanction of the ¹ [Provincial Government], may fix maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum thus fixed.

Power to fix maxima and minima rates.

48. No person shall be entitled to a refund of an overcharge unless his claim to the refund has been preferred in writing by him or in his behalf to the Board within six months from the date of payment.

Refund of overcharges.

49. (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 ² [Crown] or to any other creditor, and of any sinking fund established under section 75 and of any sum the repayment of which is due in pursuance of any terms under section 67 ;

Power to increase rates to cover deficiency of revenue.

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 ¹ [Provincial 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 ¹ [Provincial Government], and, if approved by the ¹ [Provincial Government], shall be published in the ³ [Official Gazette], and shall become leviable after the expiration of one month from the date of such publication, and continue leviable until altered by the Board with the sanction of the ¹ [Provincial Government].

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This word was substituted for the words "Secretary of State for India in Council" by Schedule II, *ibid.*

³ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1), *ibid.*

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Power of Provincial Government to enhance rates if Board fails to do so.

50. If the Board shall, for fifteen days after the receipt by the Chairman of any such requisition from the ¹ [Provincial Government], neglect or refuse to submit to the ¹ [Provincial Government] for approval such increased rates, the ¹ [Provincial Government] may, by notification in the ² [Official 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 44, section 45 or section 46 and sanctioned and published under section 47.

Board not to lease rates without sanction.

51. 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 ¹ [Provincial Government].

Fines and penalties payable to Board.

52. All fines and penalties recovered under this Act ³ [other than fines and penalties imposed by a Court] shall be paid to the Board.

Payment of balance of Tuticorin Port Fund to Board.

53. The ¹ [Provincial Government] may ⁴ [. . .] at any time direct that the whole or any portion of the balance of the moneys which may be credited under the Indian Ports Act, 1908, to the account of the Port Fund, if any, which may ^{XV} of 1908, be formed for the Port of Tuticorin, 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.

54. 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, before the goods are removed or shipped or transhipped.

Lien for rates.

55. 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, 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.

56. Such lien shall have priority over all other liens and claims, except for general average and for the shipowner'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 57, and for primage, and for money payable to ⁵ [the Crown].

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ These words were inserted by Schedule II, *ibid.*

⁴ The words "in their discretion" were omitted by *ibid.*

⁵ These words were substituted for the words "His Majesty or the Secretary of State for India in Council" by *ibid.*

(Chapter VI.—Levy and Recovery of Rates.)

57. 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 shipowner to an amount to be mentioned in such notice, such goods shall continue liable to such lien to such amount.

Preservation of lien for freight after goods are landed.

58. 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.

Retention of such goods until lien is discharged.

59. 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 without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

Discharge of shipowner's lien for freight.

60. The Board may, after the expiry of two months from the time when any goods have passed into its custody, or in the case of perishable goods after the expiry of such shorter period not being less than 24 hours as the Board may think fit, sell by public auction so much as may be necessary of such goods,

Sale of goods after two months if rates or rents are not paid or lien for freight is not discharged.

- (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 55 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 shipowner 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.

61. Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Tinnevely District 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.

(Chapter VI.—Levy and Recovery of Rates.)

Notice of sale to owner.

62. 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 registered letter ; 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.

63. (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 56 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 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.

64. 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, it shall be lawful for the Board to distrain or arrest on its own authority such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due is paid ;

and, in case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has been so made, the Board 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.

65. If the Board gives 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

(Chapter VI.—Levy and Recovery of Rates. Chapter VII.—
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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.

66. Notwithstanding anything contained in the twelve sections last preceding and in sections 111, 112 and 114 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, ¹[. . .] payable to, or recoverable by, the Board under this Act or under any by-laws made in pursuance thereof.

Alternative
remedy by
suit.

CHAPTER VII.—THE BORROWING POWERS OF THE BOARD.

67. (1) The Board may, with the previous sanction of the ²[Provincial Government], ³[. . .] and after due notification in the ⁴[Official Gazette], raise loans for the purposes of this Act.

Power to
raise loans.

(2) Loans may be raised in the open market on Port Trust Securities or obtained from the ²[Provincial Government] or the ⁵[Central Government]. The terms of all loans shall be subject to the approval of the ⁶[Provincial Government].

68. (1) The Board may, with the sanction of the ²[Provincial 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.

Port Trust
Securities.

(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.

X of 1920.

69. 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 ⁷[. . .] subject in the case of sections 10 and 15 to the understanding that the word

Indian
Securities
Act
applicable to
Port Trust
Securities.

¹ The words "or any penalties or fines" were omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid.*

³ The Government of India (Adaptation of Indian Laws) Order, 1937, directed the omission of the words "and, in the case of a loan of not less than five lakhs of rupees, of the Governor-General in Council". The direction should have been to omit the words "and, in the case of a loan of an amount of not less than five lakhs of rupees, of the Governor-General in Council". The omission to include the words "of an amount" in the direction was obviously accidental and it will be rectified by the next Repealing and Amending Bill.

⁴ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ These words were substituted for the words "Government of India" by *ibid.*

⁶ These words were substituted for the words "Governor-General in Council" by Schedule II, *ibid.*

⁷ The words "subject in the case of section 9 to the substitution of the words 'Local Government' for the words 'Governor-General in Council' and" were omitted by *ibid.*

(Chapter VII.—The Borrowing Powers of the Board.)

“prescribed” shall mean “prescribed by the ¹[Provincial Government] or by the Board with the sanction of the ¹[Provincial Government].”

Power to
frame rules.

70. (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 debentures alleged to have been wholly or partly lost or destroyed, or for the issue of duplicate debentures ;
- (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 ; and
- (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 :—

- (i) A draft of the rules shall be published in three consecutive issues of the ² [Official Gazette].

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words “Fort St. George Gazette” by *ibid.*

(Chapter VII.—The Borrowing Powers of the Board.)

(ii) The same shall have no effect until approved by the [Provincial Government] after such publication and until such approval has also been published in the ² [Official Gazette].

(iii) The ¹ [Provincial Government] may at any time by notification cancel any rule published under the provisions of this section.

71. All loans contracted by the Board, shall be raised in India, and in Indian currency, unless the ¹ [Provincial Government] ³ [. . .] shall, by a notification in the ⁴ [Official Gazette], otherwise direct. Place and currency of loans raised.

72. All loans may be raised on the security of— Security for loans.

(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.

73. The ⁵ [Crown] shall have, in respect of loans made by ⁶ [it] to the Board, or to the Tuticorin Port Conservancy Board, the same remedies as debenture-holders; and ⁷ [it] shall not be deemed to possess any prior or greater rights in respect of such loans than debenture-holders. Remedies of the Crown in respect of loans made to Board.

74. The Board may apply any sum, not less than ten thousand rupees which can be so applied without prejudicing the security of the other debenture-holders of the Board, in repaying to the ⁵ [Crown] any sum which may remain due to ⁶ [it] in respect of the principal of any loan before the time fixed for the repayment of the same. Power to repay loans before due date.

On any such repayment being made, the portion of any subsequent instalment which represents interest shall be reduced to such an amount as represents interest on the outstanding principal.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ The words "with the previous sanction of the Governor-General in Council" were omitted by Schedule II, *ibid.*

⁴ These words were substituted for the word "Gazette" by paragraph 4 (1), *ibid.*

⁵ This word was substituted for the words "Secretary of State for India in Council" by Schedule II, *ibid.*

⁶ This word was substituted for the word "him" by paragraph 5 (2), *ibid.*

⁷ This word was substituted for the word "he" by *ibid.*

(Chapter VII.—The Borrowing Powers of the Board.)

Establishment of sinking fund.

75. 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 ¹ [Provincial Government] 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 ² [Provincial Government].

Investment of sinking fund.

76. (1) The sums so set apart shall be invested in securities of the ³ [Central or the Provincial Government], or in 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 ⁴ [Provincial 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.

77. 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 Board shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient.

Power to raise loans on short-term bills.

78. 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.

¹ These words were substituted for the words "Governor-General in Council" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Secretary of State for India in Council" by *ibid.*

³ These words were substituted for the words "Government of India" by *ibid.*

⁴ These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid.*

(Chapter VIII.—Expenditure.)

CHAPTER VIII.—EXPENDITURE.

79. (1) Subject to the provisions of section 99 and to any other law for the time being in force, the rents, income, and other proceeds of any property vested in, or acquired by, the Board under this Act, 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 :—

- (a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the Chairman, Vice-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 ;
 - (b) 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 ;
 - (c) the payment of any interest which is from time to time owing by the Board ;
 - (d) payments to sinking funds and the repayment of the principal of loans as they fall due ;
 - (e) the cost or portion of the cost of any new work, plant, vessel, or appliance which the Board may determine to charge to revenue ;
 - (f) the remuneration of the members of the Board ; and
 - (g) generally for the purposes of this Act.
- (2) The Board may, with the special sanction of the ¹ [Provincial Government], incur expenditure on the provision of amenities for the recreation of its employees, or otherwise for the promotion of their well-being.

80. (1) The Board may, from time to time, set aside such sums out of its revenue surplus, as it thinks fit, as a reserve fund or funds for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, shipwreck or other accident, or for any other emergency arising in the ordinary conduct of its work under this Act :

Provided that the sums set aside as a reserve fund or funds shall not exceed such amount, annual or in the aggregate as may from time to time be fixed by the ¹ [Provincial Government].

(2) Such reserve fund or funds may be invested only in the promissory notes and other securities of the ² [Central or the Provincial Government] or in Port Trust Securities.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Government of India" by Schedule II, *ibid.*

(Chapter VIII.—Expenditure. Chapter IX.—Accounts, Estimates and Contracts.)

Prior sanction of Provincial Government to charge expenditure to capital.

81. No expenditure shall be charged by the Board to capital without the previous sanction of the ¹[Provincial Government].

Works requiring sanction of Board or Provincial Government.

82. Before any new work or appliance the estimated cost of which exceeds two thousand rupees, is commenced or provided by the Board, or any contract in respect of any such new work or appliance is entered into by the Board, a plan of and estimate for such work or appliance shall be submitted to, and approved by the Board ; and, if the estimated cost of such new work or appliance exceeds twenty-five thousand rupees, the sanction of the ¹[Provincial Government] to the plan and estimate shall be obtained before such work is commenced, or appliance provided.

Restriction of expenditure to budget grant.

83. Save in a case requiring immediate action, the Board shall not, without the assent of the ¹[Provincial Government], spend on any item of expenditure any greater sum than shall have been allotted for that item in an estimate approved by the ¹[Provincial Government] and for the time being in force.

Limit to excess of expenditure over budget grant.

84. (1) In a case requiring immediate action the Board may, without the assent of the ¹[Provincial Government], spend on any item of expenditure on which the Board is empowered to spend money under this Act—

- (i) 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 ¹[Provincial Government] and for the time being in force ;
- (ii) any sum not exceeding five thousand rupees on any item for which no funds have been allotted in any such estimate.

(2) Whenever the Board sanctions any expenditure under sub-section (1) the Chairman shall forthwith report to the ¹[Provincial 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.

85. The accounts of the receipts and expenditure of the Board shall, once in every year, be laid before the ¹[Provincial Government] and shall be audited and examined by such auditors as shall, from time to time, be appointed by the

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IX.—Accounts, Estimates and Contracts.)

¹ [Provincial 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.

86. 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 ¹ [Provincial Government] and to the Board. The Board shall cause the report and an abstract of the accounts to be published in the ² [Official Gazette] and the *Tinnevely District Gazette*.

Publication of audit report.

87. The auditors shall be paid by the Board such remuneration as the ¹ [Provincial Government] may determine.

Auditors' remuneration.

88. 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 ¹ [Provincial Government] may prescribe.

Submission to Board of annual estimate of income and expenditure.

89. Such estimate shall be printed, and a copy thereof sent by post or otherwise to each Trustee not less than ten clear days prior to the day appointed for the special meeting before which the estimate is to be laid under section 88.

Circulation of estimate to Trustees.

90. 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.

91. (1) Every such estimate, when so passed by the Board, shall be submitted to the ¹ [Provincial Government] not later than the tenth day of February; and the ¹ [Provincial 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

Approval of estimate by Provincial Government.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter IX.—Accounts, Estimates and Contracts. Chapter X.—
Pilots and Harbour-Masters.)

remarks, and shall furnish such additional information as the ¹ [Provincial Government] may call for and shall, if necessary, modify or alter the estimate and shall re-submit it to the ¹ [Provincial Government].

(2) The ¹ [Provincial 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.

Preparation
of supple-
mental
estimates.

92. The Board may, in the course of any year for which an estimate has been approved by the ¹ [Provincial Government], cause one or more supplemental estimates for the residue of such year to be prepared and laid before the Board; the procedure prescribed by sections 89, 90 and 91 shall, so far as it may be applicable, be followed in the case of such supplemental estimates.

Power to
enter into
contracts.

93. (1) Subject to the provisions of sub-section (2), the Board may enter into any contract for carrying into effect the purposes of this Act.

(2) Where the sum payable under any such contract exceeds twenty-five thousand rupees, the Board shall enter into the contract only with the assent of the ¹ [Provincial Government].

Mode of
executing
contract.

94. Subject to such restrictions or conditions as the Board may determine, every contract for and on behalf of the Board shall be executed by the Chairman or Vice-Chairman in such manner and form as if such contract were on his own behalf.

Power to
compound
or compro-
mise claims.

95. 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.

96. 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.

Appoint-
ment of
pilots.

97. No person shall be appointed as pilot or harbour-master who is not for the time being authorized by the ¹ [Provincial Government] under the provisions of the Indian Ports Act, 1908, to pilot vessels.

XV of 1908.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter X.—Pilots and Harbour-Masters.)

98. (1) Notwithstanding anything contained in sections 24, 25 and 27, the Board may make special regulations for regulating the behaviour and conduct of pilots or harbour-masters, and may provide that any breach thereof shall render the person committing it liable to a penalty not exceeding two hundred rupees in addition to such punishment in the form of suspension, dismissal or the like as the Board may deem expedient to inflict. Rules and regulations regarding pilots.

(2) Such regulations shall have no effect until they have been approved by the ¹ [Provincial Government] and published in the ² [Official Gazette].

99. 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 ³ [other than fines and penalties imposed by a Court], shall be credited to the pilotage account. Pilotage account.

100. All sums credited to the pilotage account under section 99 may be applied, in such proportions as the Board may 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.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " Fort St. George Gazette " by *ibid.*

³ These words were inserted by Schedule II, *ibid.*

(Chapter XI.—By-laws.)

CHAPTER XI.—BY-LAWS.

Power to
frame
by-laws.

101. The Board may, from time to time, make by-laws not inconsistent with the provisions of this Act or of the Indian XV of 1908. Ports Act, 1908—

- (1) for the guidance of persons employed by the Board under this Act ;
- (2) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways, and other works constructed by 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, portorage, 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 ;
- (9) for the exclusion from its premises of disorderly or other undesirable persons and of trespassers ; and
- (10) generally for carrying out the purposes of this Act.

Validity of
by-laws.

102. No by-law, or alteration or revocation of a by-law, shall have effect until the same has been published in three successive issues of the ¹ [Official Gazette] and one issue of the *Tinnevelly District Gazette* and has been approved by the ² [Provincial Government].

Penalties
for infringe-
ment of
by-laws.

103. The Board may provide that a breach of any by-law shall be punishable with fine which may extend to one hundred rupees and in case of a continuing breach with fine which may extend to fifty rupees for every day during which the breach continues after conviction for the first breach.

¹ These words were substituted for the words "*Port St. George Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "*Local Government*" by *ibid.*

(Chapter XI.—By-laws. Chapter XII.—Penalties.)

104. The Board shall cause the said by-laws and the scales of rates leviable by the Board together with a statement of the conditions under which it is prepared to render services or provide for services to be rendered to be hung up at the several wharves, docks, and piers and other convenient places on the premises of the Board.

Exhibition of by-laws and scales of rates and charges.

105. The ¹ [Provincial Government] may, by an order published in the ² [Official Gazette] and the *Tinnevely District Gazette* at any time, annul any such by-law.

Cancellation of by-laws.

CHAPTER XII.—PENALTIES.

106. Any person who, being a Trustee or an officer or servant of the Board, shall, in any case not covered by clause (e) of sub-section (1) of section 8, 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 an offence punishable under section 168 of the Indian Penal Code.

Penalty for being interested in contracts with Board.

XLV of 1860.

107. Any officer or servant of the Board, 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.

Penalty for obtaining illegal gratification.

XLV of 1860.

XLV of 1860.

108. Any person who, when duly required so to do by any auditor of accounts under section 85, 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 refusing or neglecting to appear before an auditor of accounts, etc.

109. Whoever infringes any order issued under section 34 or 35 or violates any condition imposed under section 37 shall be punished with fine which may extend from ten to one hundred rupees ; if the infringement or violation be continuing,

Penalty for infringement of section 34, 35 or 37.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Port St. George Gazette" by *ibid.*

(Chapter XII.—Penalties.)

with a further fine which may extend to one hundred rupees for every day during which such infringement or violation continues.

Penalty for depositing filth, etc., on the wharves or foreshore.

110. 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 wharves, quays, etc., without permission.

111. (1) Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of the ¹ [Provincial Government] to his so doing, make, set up or fix, within the limits of the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punishable with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection, to remain after notice to remove the same has been given to him.

(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. Such expenses shall, on the application of the Board, be recoverable under a Magistrate's warrant as if the amount were a fine inflicted by such Magistrate.

Penalty for understating quantity or weight of goods, or incorrectly describing them.

112. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight, 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 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 Magistrate's warrant as if it were a fine inflicted by such Magistrate.

Penalty for evading rates, etc.

113. 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.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order 1937

(Chapter XII.—Penalties. Chapter XIII.—Miscellaneous.)

114. 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 Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel : Provided that no Magistrate shall issue such a warrant until the master of the vessel has been summoned to appear before him and, 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 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.

Recovery of value of damage to property of Board.

115. Save as otherwise provided, no Magistrate other than a Magistrate of the first or second class shall try any offence against this Act or against any by-law published under section 102.

Cognizance of offences against Act or by-laws.

CHAPTER XIII.—MISCELLANEOUS.

116. 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 Customs Collector under existing law.

117. 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 until the expiration of one month after notice in writing has been given to him stating the cause of action or after the expiration of six months from the date on which the cause of action for such suit or proceeding arose.

Limitation of proceedings in respect of things done under the Act.

XV of 1908. 118. (1) 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, 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.

(Chapter XIII.—Miscellaneous.)

(2) Notwithstanding anything contained in sub-section (1), the Board may, in any special case, with the sanction of the ¹[Provincial Government], award compensation to any person for any act done, default made or damage caused by the Board or any of its employees.

Power of Provincial Government to make rules under the Act.

119. (1) The ¹ [Provincial Government] may make rules to carry out the purposes of this Act.

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

- (a) the qualifications of persons to be elected as Trustees of the Board ;
- (b) the salary and allowances to be paid to the Chairman, Vice-Chairman and persons appointed to act during their absence on leave and the conditions and restrictions upon and under which the same are payable ;
- (c) the fees payable to the Chairman, Vice-Chairman and other Trustees of the Board for attendance at meetings and the conditions and restrictions upon and under which such fees are payable ;
- (d) the enquiry into and decision of objections referred to in section 19 ;
- (e) the conditions subject to which the Board may relinquish the performance of any of the services specified in clauses (a) and (b) of sub-section (1) of section 40 or enter into any agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 41 ;
- (f) the form of the receipt to be given under sub-section (3) of section 40 by the Board, or under sub-section (1) of section 43 by a person to whom any services have been relinquished ; and
- (g) the form of annual estimates of income and expenditure to be laid before the Board under section 88.

(3) The power to make rules under this section is subject to the following conditions :—

- (a) a draft of the rules shall be published in the ² [Official Gazette] and the *Tinnevely District Gazette* ;
- (b) such draft shall not be further proceeded with until one month after such publication ;
- (c) all rules made under this section shall be published in the ² [Official Gazette] and the *Tinnevely District Gazette*, and upon such publication shall have effect as if enacted in this Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(Chapter XIII.—Miscellaneous. Schedule I.—The properties vested in the Board.)

120. The Chairman shall supply such returns and information as may be called for by the ¹ [Provincial Government] for the purposes of this Act.

Submission of returns and information to Provincial Government.

121. If, at any time, it appears to the ¹ [Provincial 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 ¹ [Provincial Government] may give six months' notice, by order published in the ² [Official Gazette], that unless, within that period, the Board take measures to the satisfaction of the ¹ [Provincial 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 ¹ [Provincial 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 the, ³ [Crown for the purposes of the Province]; and the rights of all creditors of the Board under this Act shall continue as against the ⁴ [Provincial Government] to the extent of the property so transferred to and vested in ⁵ [it].

Power of Provincial Government to take possession of works and cancel powers of Board.

SCHEDULE I.

[See section 29.]

The properties vested in the Board.

1. All that piece or parcel of land between the Imperial Bank of India buildings to the south and the beach opposite to Messrs. Ralli Brothers' buildings to the north enclosed by fencing, with the buildings, structures and appliances thereon, excepting the covered goods shed, combustible shed and passengers baggage shed belonging to the Customs Department and the plague disinfection shed of the Port Health Department.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ These words were substituted for the words "Secretary of State for India in Council" by Schedule II, *ibid.*

⁴ These words were substituted for the words "Secretary of State for India in Council" by *ibid.*

⁵ This word was substituted for the word "him" by paragraph 5, (2), *ibid.*

(Schedule I.—The properties vested in the Board.)

2. Resurvey Nos. 392-2 and 392-3 of Tuticorin village, comprising an area of 128·43 acres.
3. Resurvey No. 394 of Tuticorin village, comprising an area of 105·59 acres.
4. Resurvey Nos. 347 to 369 and 790 of Mullakad village, comprising an area of 949·26 acres.
5. Old Survey No. 393 of Tuticorin village, comprising an area of 0·30 acre.
6. All the unsurveyed and swampy land between resurvey Nos. 349, 350, 354, 355, 790 and 369 of Mullakad village and the sea.
7. All the unsurveyed and swampy land south of the Travellers' bungalow, east of Kuthalalingam Chettiyar's salt factory and north of the Uppar Odai mouth.
8. All the unsurveyed and swampy land lying to the south of the Uppar Odai and east of Milavittan village.

MADRAS ACT No. II OF 1925.¹

[THE MADRAS SURVEY AND BOUNDARIES ACT, 1923
 (VALIDATION) ACT, 1924.]

[17th February 1925.]

An Act to remove all doubts as to the validity of the
 Madras Survey and Boundaries Act, 1923.

Preamble.

WHEREAS it appears that the Madras Survey and Boundaries Act, 1923, as assented to by the Governor on the 21st day of February 1923, and by the Governor-General on the 12th day of March 1923 and as published in the *Fort St. George Gazette* on the 29th day of May 1923 contained the words ' order regarding ' in sub-section (2) of section 11 of the said Act instead of the words ' map recording ' which occurred in the said sub-section as passed by the local Legislative Council ;

Mad. Act,
VIII of
1923

AND WHEREAS doubts have arisen as to the validity of the said Act and of things done under the same ;

AND WHEREAS it is expedient to remove all such doubts ;
 It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Survey and Boundaries Act, 1923 (Validation) Act, 1924.

Principal Act.

2. In this Act, " the Madras Survey and Boundaries Act, 1923, " shall mean what was published under that title at pages 121 to 126 in Part IV of the *Fort St. George Gazette*, dated the 29th day of May 1923.

Mad. Act,
VIII of
1923.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 25th November 1924—Part IV, page 272.

Mad. Act,
VIII of
1923.

3. The provisions contained in the Madras Survey and Boundaries Act, 1923, are hereby enacted with the substitution of the words " A copy of the order and a copy of the map recording the boundaries as determined under section 9, 10 or 11 (1) shall be furnished to any person interested in such order or map " for the words " A copy of the order under section 10 or 11 (1) and a copy of the order regarding the boundaries as determined under section 9, 10 or 11 (1) shall be furnished to any person interested in such orders " occurring in sub-section (2) of section 11 of the Madras Survey and Boundaries Act, 1923.

Amendment
of section 11
of the
Principal
Act.

And the said provisions with the said substitution shall be deemed to have been in force with effect from the 29th day of May 1923.

THE COCHIN PORT TRUST ACT, 1925.

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(Chapter I.—Preliminary.)

MADRAS ACT No. VIII OF 1925.¹

[THE COCHIN PORT TRUST ACT, 1925.]

[22nd December 1925.]

WHEREAS it is expedient to make provision for the regulation, conservancy and improvement of the port of Cochin and WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

- Short title. 1. This Act may be called the Cochin Port Trust Act, 1925.
- Commencement. 2. This Act shall come into force on such date¹ or dates as the Local Government may, by notification, direct.
- Interpretation clause. 3. In this Act, unless there be something repugnant in the subject or context,
- “ Board.” (1) “ Board ” means the Trustees of the Port of Cochin appointed under this Act ;
- “ Chief Officer of Customs.” (2) “ Chief Officer of Customs ” denotes the Chief Executive Officer of Customs for the Port of Cochin for the time being ;
- “ Goods.” (3) “ Goods ” means and includes every kind of movable property ;
- “ Land.” (4) “ Land ” includes the bed of the sea below high water-mark ;
- “ Master.” (5) “ 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.” (6) “ 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.” (7) “ Pier ” includes any stage, stairs, landing-place, hard, jetty, landing stage, floating barge or pontoon, and any bridges or other works connected therewith ;
- “ Port.” (8) “ Port ” means the port of Cochin within such limits as may from time to time be defined by the Local 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 the Indian Ports Act, 1908 ;

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¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th February 1925—Part IV, page 74.

This Act has not yet been brought into force and no adaptations have been made in it with reference to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter I.—Preliminary. Chapter II.—The Board of Trustees.)

- (9) " Port Trust Security " means debentures, bonds " Port Trust or stock certificates issued by the Board in respect of Security." any loan contracted under the provisions of this Act ;
- (10) " Prescribed " means prescribed by rules or regu- " Prescribe- lations or by-laws made under this Act ; ed."
- (11) " Rate " includes any toll, due, rent, rate or charge " Rate." leviable under this Act ;
- (12) " Vessel "denotes anything made for the convey- " Vessel." ance by water of human beings or of property ;
- (13) " Wharf " includes any wall or stage and any " Wharf." part of the foreshore that may be used for loading or unloading goods, and any wall enclosing or adjoining the same.

CHAPTER II.

THE BOARD OF TRUSTEES.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called " The Trustees of the Port of Cochin " 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.

5. The Board shall consist of such number of Trustees, not being less than ten or more than fifteen including the Chairman and Vice-Chairman, as the Local Government may notify. Provided that the Chairman or Vice-Chairman, if absent on leave for more than a fortnight and if another Chairman or Vice-Chairman is appointed to act for him, shall cease to be a Trustee and shall, on return to duty, again become a Trustee.

6. (1) (a) Two Trustees shall be elected by the members for the time being of the Cochin Chamber of Commerce, one by the Cochin Municipal Council, and one by the members for the time being of the United Planters' Association of Southern India, at a meeting of the Chamber or Municipal Council or Association held in accordance with the rules in force or by postal vote in the case of the Association.

(b) The Local Government shall invite the Cochin Merchants' Association to nominate two persons for appointment as Trustees and in the event of such nominations being made shall appoint the persons nominated as Trustees.

(c) The Local Government shall invite the Cochin and Travancore Darbars each to nominate two persons for appointment as Trustees and in the event of such nominations being made shall appoint the persons nominated as Trustees.

(Chapter II.—The Board of Trustees.)

(d) The Local Government after consultation with the Cochin and Travancore Darbars shall appoint a Chairman and may appoint a Vice-Chairman and the other Trustees.

(2) A return of the name of every person elected as Trustee shall be forwarded to the Local Government by the Chairman of the Chamber or Municipal Council or Association concerned.

Publication
of names of
Trustees.

7. The names of persons appointed or elected as Trustees shall be published in the *Fort St. George Gazette* and the *Malabar District Gazette*.

Disqualifica-
tions for
office of
Trustee.

8. (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 uncertified bankrupt or undischarged insolvent, or

(d) holds any office or place of profit under the Board :

Provided that a person holding the office of Engineer as defined in section 26 shall not be disqualified to be Chairman or Vice-Chairman of the Board and a person holding the office of Traffic Manager shall not be disqualified to be Vice-Chairman of the Board, or

(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

(Chapter II.—The Board of Trustees.)

- (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 38 shall have been relinquished under section 40.

(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) fails to attend, without the permission of the Board previously obtained, three consecutive ordinary meetings of the Board, or
- (d) is absent from the meetings of the Board for a period exceeding six consecutive months, shall cease to be a Trustee.

9. The Chairman and Vice-Chairman shall hold office during the pleasure of the Local Government. The remaining Trustees shall hold office for a term of two years from the date of election or appointment, as the case may be, but the Board may at any time accept the resignation of any Trustee.

Term of office of Chairman, Vice-Chairman and Trustees.

10. The first elective Trustees shall be elected, and the first Chairman, Vice-Chairman and nominee Trustees shall be nominated on such dates as may be notified.

First election of Trustees and first appointment of Chairman, Vice-Chairman and Trustees.

11. Any person ceasing to be a Trustee shall, unless disqualified under sub-section (1) of section 8, be eligible for re-election or re-appointment.

Eligibility of Trustees for re-election or re-appointment.

12. (1) When an elected Trustee ceases to hold office, the vacancy shall be filled up within one month by the Chamber of Commerce or the Cochin Municipal Council or the United Planters' Association of Southern India as the case may be in the manner provided in clause (a) of sub-section (1) of section 6.

Election or appointment of Chairman, Vice-Chairman or Trustee in vacancy

(Chapter II.—The Board of Trustees.)

(2) When a Trustee appointed under clause (b) of sub-section (1) of section 6 ceases to hold office, the Local Government shall invite the Cochin Merchants' Association to nominate another person within one month from the date of the receipt of such invitation and in the event of such nomination being made shall appoint such person as Trustee.

(3) When a Trustee appointed under clause (c) of sub-section (1) of section 6 ceases to hold office, the Local Government shall invite the Darbar concerned to nominate another person and in the event of such nomination being made shall appoint such person as Trustee.

(4) When the Chairman, Vice-Chairman or any Trustee appointed under clause (d) of sub-section (1) of section 6 ceases to hold office, the Local Government may appoint a Chairman, Vice-Chairman or Trustee as the case may be after consultation with the Cochin and Travancore Darbars.

Nomination of elected Trustees by Local Government in default of election.

13. (1) If a Trustee is not elected on the date notified under section 10 or within the period allowed by sub-section (1) of section 12, the Local Government may appoint a Trustee and the person so appointed shall be deemed to be an elected Trustee.

(2) If a Trustee is not nominated within the period allowed by sub-section (2) of section 12, the Local Government may make the appointment.

Grant of leave of absence to Chairman or Vice-Chairman.

14. The Local Government may from time to time grant to the Chairman or Vice-Chairman such leave of absence as they may deem fit, and any person appointed by the Local Government to act for the Chairman or Vice-Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman or Vice-Chairman, as the case may be.

Remuneration to Chairman or Vice-Chairman and acting Chairman or Vice-Chairman.

15. The Local Government after consultation with the Cochin and Travancore Darbars may from time to time determine the remuneration, if any, to be paid as salary, leave allowances or other allowances to the Chairman or Vice-Chairman and to the person appointed under section 14 to act for the Chairman or Vice-Chairman during his absence on leave and may prescribe any conditions and restrictions upon and under which such remuneration shall be payable.

Fees payable to Chairman, Vice-Chairman and other Trustees.

16. The Local Government may prescribe from time to time the fees, if any, to be paid to the Chairman, Vice-Chairman and other Trustees for attendance at meetings and to prescribe conditions and restrictions upon and under which such fees shall be payable.

(Chapter II.—The Board of Trustees.)

17. The following provisions shall be observed with respect to the proceedings of the Board, namely—
- Provisions concerning Board's proceedings.
- (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 :—
- Meetings, etc., for transaction of business.
- (a) that a meeting shall be held once at least in every month ;
- Ordinary monthly 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 ;
- Special meetings.
- (c) that no business shall be transacted at any meeting unless at least five Trustees are present throughout such meeting ;
- Quorum.
- (d) that every meeting shall be presided over by the Chairman, if he is present or the Vice-Chairman in his absence and if and while both are absent by such one of the Trustees present as may be chosen by the meeting ;
- President at meetings.
- (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 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) that the President may, with the consent of any meeting, adjourn it ;
- Adjournment of meetings.
- (i) that a copy of the minutes of every meeting of the Board shall, as soon as conveniently may be, be sent for publication in the *Malabar District Gazette* at the cost of the Board and a copy of the minutes shall also, within three days of every meeting, be transmitted to such Secretary to the
- Transmission of minutes to Government and their publication in gazette.

(Chapter II.—The Board of Trustees.)

Local Government and such officer of each Darbar as may, from time to time, be appointed to receive the same. The copy of the minutes shall also be published in such manner as the Board may direct.

Appoint-
ment of
Committees
by Board.

(2) The Board may, from time to time, appoint Committees consisting of not less than three 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 may be defined by the Board. The Board may at any time alter the constitution of or discontinue any such Committee.

Chairman at
meetings of
Committees.

(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.

Meetings of
Committees.

(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.

Decisions of
questions at
meetings of
Committees.

(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.

Quorum in
Committees.

(6) No business shall be transacted at any such meeting unless at least three of the members of the Committee are present throughout such meeting.

Restriction
on power of
Trustees to
vote or dis-
cuss matters
in which
they are
interested.

18. (1) 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, the Cochin or Travancore Darbar, a local authority or a railway company.

(2) If objection is made that any Trustee has in any question before the meeting such interest as is referred to in sub-section (1), the objection shall be considered and decided by the other Trustees in such manner as may be prescribed by the Local Government. The decision of the other Trustees shall be final.

(3) If objection is made to the Chairman that a Trustee voted on or took part in the discussion of any question contrary to the provisions of sub-section (1), the objection, unless, in pursuance of the resolution, a right in a third party has been created, shall be inquired into and decided in accordance

(Chapter II.—*The Board of Trustees. Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman.*)

with such rules as may be prescribed by the Local Government and such decision shall be final. Pending such decision the resolution on the question shall not be given effect to. If the decision is that the Trustee voted or took part contrary to the provisions of sub-section (1), the resolution on the question shall not be given effect to.

19. No act or proceeding of the Board or of any Committee or of any person acting as Chairman or Vice-Chairman shall be deemed to be invalid by reason only of some defect in the establishment of the Board or Committee or on the ground that any Trustee was disqualified for the office or by reason of such act having been done during the period of any vacancy in the office of Chairman or Vice-Chairman or of any Trustee. Validation of acts and proceedings.

20. The Board may, by resolution in writing, with the sanction of the Local Government, determine which of the powers and duties by this Act conferred or imposed upon the Board may be exercised and performed by the Chairman or Vice-Chairman. Delegation of powers to Chairman or Vice-Chairman.

21. It shall be the duty of the Chairman—

- (1) to attend every meeting of the Board unless prevented by sickness or other reasonable cause ;
- (2) to exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ;
- (3) subject to the regulations prescribed under sections 23 and 96 and to the schedule for the time being in force framed by the Board under section 22, to dispose of all questions relating to the service of the officers and servants of the Board, and their pay, privileges and allowances :

Duties of Chairman.

Provided that, subject to the control of the Local Government, the Chairman may delegate all or any of these duties to the Vice-Chairman as may seem good to him from time to time.

CHAPTER III.

OFFICERS AND SERVANTS OTHER THAN THE CHAIRMAN AND VICE-CHAIRMAN.

22. The Board shall, from time to time, prepare and sanction a schedule of the staff of officers other than the Chairman and Vice-Chairman and of servants whom the Board shall deem it necessary and proper to maintain for Schedule of Board's staff.

(Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman.)

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.

Explanation.—Artisans, porters and labourers, and suppliers of porters and labourers are not officers and servants within the meaning of this section or of section 23 or 25.

Power to frame regulations regarding leave,

absentee allowances,

acting allowances,

length of service,

pensions, etc., and

contribution to provident fund,

pensions in the case of subordinates injured or who died while in the service of the Board.

23. (1) The Board may, from time to time, frame regulations—

- (a) for regulating the grant of leave to the officers (other than the Chairman or Vice-Chairman) and servants of the Board ;
- (b) for authorizing the payment of allowances to the said officers and servants, or to any of them, whilst absent on leave ;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;
- (d) for regulating the period of service of all such officers and servants ;
- (e) for determining the conditions under which such officers and servants or any of them may become entitled on retirement, to pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;
- (f) for authorizing the payment of contributions at such rates and subject to such conditions as the Board may prescribe 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 ;
- (g) 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 ; and
- (h) generally for the regulation of similar matters.

(2) The regulations framed under clauses (e), (f) and (g) of sub-section (1) shall be subject to the approval of the Local Government.

(3) Subject to the provisions of section 98, all pensions, contributions and allowances mentioned in this section shall be chargeable to the general fund of the Board.

(Chapter III.—Officers and Servants other than the Chairman and Vice-Chairman. Chapter IV.—Property of the Board.)

24. Notwithstanding anything contained in sections 22 and 23, the Board may, subject to the sanction of the Local Government, frame regulations of the nature mentioned in clauses (e) to (g) of section 23 for the benefit of artisans, porters and labourers and the suppliers of porters and labourers ; and subject to the provisions of section 98 all pensions, contributions and allowances payable under any such regulation shall be chargeable to the general fund of the Board.

Power to frame regulations for artisans, porters, etc.

25. (1) Subject to the regulations prescribed under section 23 and the schedule for the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman or Vice-Chairman in such cases and subject to such restrictions as may be determined by the Local Government and in every other case by the Local Government.

Power to appoint, punish or grant leave to officers and servants.

(2) In the case of punishments inflicted by the Chairman or Vice-Chairman, an appeal shall lie to the Board.

(3) 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, in the case of officers appointed by the Local Government lie with the Local Government and in all other cases with the Board.

Power of dispensing with services or permitting retirement of officers or servants.

26. Every order or regulation made by the Board under sections 22, 23, or 25 shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of the Local Government.

Prior sanction of Local Government to orders or regulations of Board.

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.

27. On the commencement of the whole of this Act
- (i) all movable property held by or vested in the Cochin Port Conservancy Board shall vest in the Board, but subject to all charges and liabilities affecting the same, and
 - (ii) all contracts, deeds, bonds, agreements and other instruments of whatever nature, and all other things duly done and subsisting or having effect immediately before the commencement of this Act and to which the Port Conservancy Board is a party, shall be of as

Property vested in Board.

(Chapter IV.—Property of the Board. Chapter V.—Works and Services.)

full force and effect against or in favour of the Board as the case may be, and may be enforced as fully and effectually as if, instead of the Port Conservancy Board, the Board had been a party thereto.

Power to acquire, hold or alienate property.

28. (1) Subject to the provisions herein contained the Board shall, for the purpose of this Act, have the power to acquire and hold immovable or movable property, whether within or without the limits of the port, and also power to lease or sell any immovable or movable property which may have vested in or been acquired by it.

(2) Every acquisition of immovable property, every sale and every lease for a term exceeding ten years of immovable property shall be made with the previous sanction of the Local Government.

Application of Land Acquisition Act.

29. 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 acquisition, be deemed to be vested in the Board. I of 1894.

CHAPTER V.

WORKS AND SERVICES.

Power to execute works and provide appliances.

30. The Board may execute such works and provide such appliances as it may determine to be necessary or expedient for the purposes of the port.

General nature of works to be executed or appliances to be provided.

31. Such works and appliances may include—

- (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 ;
- (2) railways, tramways, locomotives, rolling stock, sheds, warehouses and other accommodation for passengers and goods and other appliances within the port for carrying passengers and for conveying, receiving and storing goods landed, or to be shipped or otherwise ;
- (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 port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act ;

(Chapter V.—Works and Services.)

- (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 fore-shore ;
- (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 transshipping passengers or goods under section 38 ;
- (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.

32. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the Board may, with the previous sanction of the Local Government, by a notification published in three consecutive issues of the *Fort St. George Gazette* and one issue of the *Malabar District Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

Sea-going
vessels
compelled
to use
wharves,
etc.

From and after such publication, the Board may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty, or pier for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which being about to take in cargo, has not commenced to do so. In making such order the Board shall have regard, as far as possible, to the convenience of such vessel and of the shippers, in respect of the use of any particular wharf, quay, stage, jetty or pier.

(Chapter V.—Works and Services.)

If accommodation sufficient, all sea-going vessels compelled to use wharves, etc.

33. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of the Local Government, by an order published in three consecutive issues of the *Fort St. George Gazette*, and one issue of the *Malabar District Gazette*, direct that no goods shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Power to order vessels not to come alongside of or to be removed from wharves, etc.

34. Any officer appointed by the Board in this behalf may, in cases of emergency, or for any reason which appears to him sufficient by notice in writing, order the master or owner of any vessel not to bring such vessel alongside of, or to remove such vessel from, any wharf, quay, stage, jetty or pier belonging to the Board, and, if such notice is not obeyed, the Board may charge in respect of such vessel such sum as it thinks fit, not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such wharf, quay, stage, jetty or pier :

Provided that in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of twelve hours from the service of such notice as aforesaid on the master or owner of the vessel.

Power to Local Government to exempt from obligation to use wharves, etc., and

35. Notwithstanding anything contained in sections 32 and 33, the Local Government may by notification in the *Fort St. George Gazette* and the *Malabar District Gazette*, from time to time, permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner during such period, subject to such payments and on such conditions as they may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also by like notification, cancel or modify any such notification.

to require preference to be given to Government vessels.

The Local Government may also at any time require that any vessel belonging to or in the service of His Majesty or the Government of India shall be permitted to come alongside of any wharf, quay, stage, jetty or pier belonging to the Board in preference to all other vessels at the time in port ; and it shall be incumbent on the Board to give effect to any such requisition.

Power to order survey or examination of works.

36. 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 its general fund.

(Chapter V.—Works and Services.)

37. If, at any time, the Board allows any work or appliance constructed or provided by or vested in it to fall into disrepair, or does not, within a reasonable time, complete any work commenced by it or included in any estimate sanctioned by the Local Government,

Power of Local Government to restore or complete works at the cost of Board.

or does 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 does not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in the Local Authorities

IX of 1914. Loans Act, 1914.

38. (1) The Board shall, according to its powers, provide all reasonable facilities for and shall have power to undertake the following services :—

Performance of services by the Board.

- (a) landing, shipping, or transshipping 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.

IX of 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), which it shall have undertaken ; 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 40

(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.

(Chapter V.—Works and Services.)

After any goods have been taken charge of and a receipt given for them under this section, no liability for any loss or 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.

Respon-
sibility of
Board for
loss, etc.,
of goods.

39. (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 38 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 or damage shall have been given within one month of the date of the receipt given for the goods under sub-section (3) of section 38.

Relinquish-
ment of
services
subject to
the control
of the Local
Government.

40. (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 38 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 39.

(2) Every agreement entered into under this section shall be in writing and signed by or on behalf of the parties concerned.

(3) No person to whom the performance of any service specified in clause (a) or (b) of sub-section (1) of section 38 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 44 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 44 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 39.

(Chapter V.—Works and Services. Chapter VI.—Levy and Recovery of Rates.)

41. (1) Any person to whom any or all of the services under clauses (a) and (b) of sub-section (1) of section 38 has or have been relinquished under section 40, 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 prescribed by the Local Government.

Performance of services by persons to whom the services have been relinquished by the Board.

(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.

IX of 1872.

CHAPTER VI.

LEVY AND RECOVERY OF RATES.

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 40 or partly by one and partly by the other :—

Scale of rates.

- (a) transshipping 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) crannage or portorage 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.

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 :—

Scale of rates and statement of conditions for use of property belonging to the Board.

- (a) approaching or lying at or alongside any moorings, wharf, quay, pier, dock, land, buildings or place as aforesaid by vessels or boats ;
- (b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place as 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.

(Chapter VI.—Levy and Recovery of Rates.)

Consolidated rates for combination or services. **44.** The Board may frame a consolidated scale of 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. **45.** (1) Every scale and every statement of conditions framed by the Board under section 42, section 43 or section 44 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. 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 two hundred rupees in each case.

Power to fix maxima and minima rates. (3) In respect of any item of any scale of rates framed under the powers conferred by section 42, section 43 or section 44, the Board, with the previous sanction of the Local Government may fix maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum thus fixed.

Refund of overcharges. **46.** No person shall be entitled to a refund of an overcharge unless his claim to the refund has been preferred in writing by him or in his behalf to the Board within six months from the date of payment.

Power to increase rates to cover deficiency of revenue. **47.** (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 73 and of any sum the repayment of which is due in pursuance of any terms under section 65 ;

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 ;

(Chapter VI.—Levy and Recovery of Rates.)

the Board may, and upon the requisition of the Local Government shall increase the rate 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 one month from the date of such publication, and continue leviable until altered by the Board with the sanction of the Local Government.

48. 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, section 43 or section 44 and sanctioned and published under section 45.

Power of Local Government to enhance rates if Board fails to do so.

49. 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.

Board not to lease rates without sanction.

50. All fines and penalties recovered under this Act shall be paid to the Board.

Fines and penalties payable to Board.

51. 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, to the account of the Cochin Port Fund, after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board for the purposes of this Act.

Payment of balance of Cochin Port Fund to Board.

XV of 1908.

52. 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, before the goods are removed or shipped or transhipped.

Time for payment of rates on goods.

53. 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, the Board shall have a lien on such goods, or if such goods have been removed from the custody of the Board or from the public customs wharves and warehouses where they have been retained with the consent of the Chief Officer of Customs

Lien for rates.

(Chapter VI.—Levy and Recovery of Rates.)

under the provisions of section 56, on other goods of the person liable, then being in or thereafter coming into the possession of the Board and may detain the same until such rates and rents are fully paid.

Priority of
lien of
Board over
other liens
and claims.

54. Such lien 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 55, 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.

55. 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

56. 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.

57. 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 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.

58. The Board may, after the expiry of two months from the time when any goods have passed into its custody, or in the case of perishable goods after the expiry of such shorter period not being less than 24 hours as the Board may think fit, 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 or in respect of other goods for the payment of which the Board has a lien under section 53 have not been paid; or

(b) if any rent referred to in section 53 in respect of any place on or in which such goods or other goods of the same owner have been stored has not been paid; or

(Chapter VI.—Levy and Recovery of Rates.)

- (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.

59. Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Malabar District 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.

60. 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 registered letter ; 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.

61. (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 54 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 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.

62. 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, it shall be lawful for the Board to distrain or arrest on its own authority such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due is paid ;

(Chapter VI.—Levy and Recovery of Rates. Chapter VII.—
The Borrowing Powers of the Board.)

and, in case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has been so made, the Board 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.

63. If the Board gives 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.

64. Notwithstanding anything contained in the twelve sections last preceding and in sections 109, 110 and 112 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.

Power to raise loans.

65. (1) The Board may, with the previous sanction of the Local Government, and, in the case of a loan of an amount of not less than five 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 or the Travancore or Cochin Darbar. The terms of all loans shall be subject to the approval of the Governor-General in Council.

Port Trust Securities.

66. (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.

(Chapter VII.—The Borrowing Powers of the Board.)

X of 1920.

67. 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 subject in the case of section 9 to the substitution of the words "Local Government" for the words "Governor-General in Council" and subject in the case of sections 10 and 15 to the understanding that the word "prescribed" shall mean "prescribed by the Local Government or by the Board with the sanction of the Local Government."

Indian
Securities
Act appli-
cable to
Port Trust
Securities.

68. (1) The Board may from time to time make rules to provide for all or any of the following matters, viz. :— Power to
frame rules.

- (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 debentures alleged to have been wholly or partly lost or destroyed, or for the issue of duplicate debentures ;
- (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 ; and
- (m) the fees to be levied in respect of the issue of stock certificates.

X of 1920.

(Chapter VII.—The Borrowing Powers of the Board.)

(2) The power to make rules under sub-section (1) is subject to the following conditions :—

- (i) A draft of the rules shall be published in three consecutive issues of the *Fort St. George Gazette*.
- (ii) 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*.
- (iii) The Local Government may at any time by notification cancel any rule published under the provisions of this section.

Place and
currency of
loans raised.

69. 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.

70. 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.

71. The Secretary of State for India in Council shall have, in respect of loans made by him to the Board, or to the Cochin Port Conservancy Board, the same remedies as debenture-holders ; and he shall not be deemed to possess any prior or greater rights in respect of such loans than debenture-holders.

Power to
repay loans
before due
date.

72. The Board may apply any sum, not less than ten thousand rupees which can be so applied without prejudicing the security of the other debenture-holders of the Board, 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 before the time fixed for the repayment of the same.

On any such repayment being made, the portion of any subsequent instalments which represents interest shall be reduced to such an amount as represents interest on the outstanding principal.

Establish-
ment of
sinking
fund.

73. 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 :

(Chapter VII.—*The Borrowing Powers of the Board.*
Chapter VIII.—*Expenditure.*)

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.

74. (1) The sums so set apart shall be invested in securities of the Government of India, or in 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. Investment 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. Application of sinking fund.

75. 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 Board shall pay forthwith in to the sinking fund any amount which the Accountant-General may certify to be deficient. Examination of sinking fund.

76. 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. Power to raise loans on short-term bills.

CHAPTER VIII.

EXPENDITURE.

77. (1) Subject to the provisions of section 97 and to any other law for the time being in force, the rents, income and other proceeds of any property vested in, or acquired by, the Board under this Act, 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 :— Objects on which Board may spend money.

- (a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys due to the Chairman, Vice-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 ;

(Chapter VIII.—Expenditure.)

- (b) 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 ;
- (c) the payment of any interest which is from time to time owing by the Board ;
- (d) payments to sinking funds and the repayment of the principal of loans as they fall due ;
- (e) the cost or portion of the cost of any new work, plant, vessel, or appliance which the Board may determine to charge to revenue ;
- (f) the remuneration of the members of the Board ; and
- (g) generally for the purposes of this Act.

(2) The Board may, with the special sanction of the Local Government, incur expenditure on the provision of amenities for the recreation of its employees or otherwise for the promotion of their well being.

Establishment of reserve fund.

78. (1) The Board may, from time to time, set aside such sums out of its revenue surplus, as it thinks fit, as a reserve fund or funds for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, shipwreck or other accident, or for any other emergency arising in the ordinary conduct of its work under this Act :

Provided that the sums set aside as a reserve fund or funds shall not exceed such amount, annual or in the aggregate, as may from time to time be fixed by the Local Government.

(2) Such reserve fund or funds may be invested only in the promissory notes and other securities of the Government of India, or in Port Trust Securities.

Prior sanction of Local Government to charge expenditure to capital.

79. 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.

80. Before any new work or appliance the estimated cost of which exceeds two thousand rupees, is commenced or provided by the Board, or any contract in respect of any such new work or appliance is entered into by the Board, a plan of and estimate for such work or appliance shall be submitted to, and approved by the Board ; and, if the estimated cost of such new work or appliance exceeds twenty-five thousand rupees, the sanction of the Local Government to the plan and estimate shall be obtained before such work is commenced, or appliance provided.

(Chapter VIII.—Expenditure. Chapter IX.—Accounts, Estimates and Contracts.)

81. Save in a case requiring immediate action, 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.

Restriction of expenditure to budget grant.

82. (1) In a case requiring immediate action 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—

Limit to excess of expenditure over budget grant.

(i) 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 ;

(ii) any sum not exceeding five thousand rupees on any item, for which no funds have been allotted in any such estimate.

(2) Whenever the Board sanctions any expenditure under sub-section (1) 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.

83. 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.

Audit and examination of accounts.
Power of auditors to call for books, etc.

84. 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* and the *Malabar District Gazette*.

Publication of audit report.

(Chapter IX.—Accounts, Estimates and Contracts.)

Auditors' remuneration. 85. The auditors shall be paid by the Board such remuneration the Local Government may determine.

Submission to Board of annual estimate of income and expenditure. 86. 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 may prescribe.

Circulation of estimate to Trustees. 87. Such estimate shall be printed, and a copy thereof sent by post or otherwise to each Trustee not less than ten clear days prior to the day appointed for the special meeting before which the estimate is to be laid under section 86.

Revision and passing of estimate. 88. 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.

Approval of estimate by Local Government. 89. (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.

(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.

Preparation of supplemental estimates. 90. 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 ; the procedure prescribed by sections 87, 88 and 89 shall, so far as it may be applicable, be followed in the case of such supplemental estimates.

Power to enter into contracts. 91. (1) Subject to the provisions of sub-section (2), the Board may enter into any contract for carrying into effect the purposes of this Act.

(2) Where the sum payable under any such contract exceeds twenty-five thousand rupees, the Board shall enter into the contract only with the assent of the Local Govern-

(Chapter IX.—Accounts, Estimates and Contracts. Chapter X.—
Pilots and Harbour-Masters.)

92. Subject to such restrictions or conditions as the Board may determine, every contract for and on behalf of the Board shall be executed by the Chairman or Vice-Chairman in such manner and form as if such contract were on his own behalf.

Mode of
executing
contract.

93. 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.

Power to
compound or
compromise
claims.

CHAPTER X.

PILOTS AND HARBOUR-MASTERS.

94. 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.

Pilotage
fees.

95. No person shall be appointed as pilot or harbour-master who is not for the time being authorized by the Local Government under the provisions of the Indian Ports Act, 1908, to pilot vessels.

Appoint-
ment of
pilots.

XV of 1908.

96. (1) Notwithstanding anything contained in sections 22, 23 and 25, the Board may make special regulations for regulating the behaviour and conduct of pilots or harbour-masters, and may provide that any breach thereof shall render the person committing it liable to a penalty not exceeding two hundred rupees in addition to such punishment in the form of suspension, dismissal or the like as the Board may deem expedient to inflict.

Rules and
regulations
regarding
pilots.

(2) Such regulations shall have no effect until they have been approved by the Local Government and published in the *Fort St. George Gazette*.

97. 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.

Pilotage
account.

98. All sums credited to the pilotage account under section 97, may be applied, in such proportions as the Board may 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;

(Chapter X.—Pilots and Harbour-Masters. Chapter XI.—
By-Laws.)

- (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.

CHAPTER XI.

BY-LAWS.

Power to
frame
by-laws.

99. 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—

XV of 1908.

- (1) for the guidance of persons employed by the Board under this Act;
- (2) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways and other works constructed by 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, portorage, 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;
- (9) for the exclusion from its premises of disorderly or other undesirable persons and of trespassers; and
- (10) generally for carrying out the purposes of this Act.

(Chapter XI.—By-Laws. Chapter XII.—Penalties.)

100. No by-law, or alteration or revocation of a by-law shall have effect until the same has been published in three successive issues of the *Fort St. George Gazette* and one issue of the *Malabar District Gazette* and has been approved by the Local Government.

Validity of
by-laws.

101. The Board may provide that a breach of any by-law shall be punishable with fine which may extend to one hundred rupees and in case of a continuing breach with fine which may extend to fifty rupees for every day during which the breach continues after conviction for the first breach.

Penalties for
infringement
of by-laws.

102. The Board shall cause the said by-laws and the scales of rates leviable by the Board together with a statement of the conditions under which it is prepared to render services or to provide for services to be rendered to be hung up at the several wharves, docks and piers and other convenient places on the premises of the Board.

Exhibition
of by-laws
and scales of
rates and
charges.

103. The Local Government may, by an order published in the *Fort St. George Gazette* and the *Malabar District Gazette* at any time, annul any such by-law.

Cancellation
of by-laws.

CHAPTER XII.

PENALTIES.

104. Any person who, being a Trustee, or an officer or servant of the Board, shall, in any case not covered by clause (e) of sub-section (1) of section 8, 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 an offence punishable under section 168 of the Indian Penal Code.

Penalty for
being inter-
ested in con-
tracts with
Board.

105. Any officer or servant of the Board, 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.

Penalty for
obtaining
illegal
gratifica-
tion.

XLV of
1860.

XLV of
1860.

(Chapter XII.—Penalties.)

Penalty for refusing or neglecting to appear before an auditor of accounts, etc.

106. Any person who, when duly required so to do by any auditor of accounts under section 83, 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 infringement of sections 32, 33 or 35.

107. Whoever infringes any order issued under section 32 or 33 or violates any condition imposed under section 35 shall be punished with fine which may extend from ten to one hundred rupees; if the infringement or violation be continuing, with a further fine which may extend to one hundred rupees for every day during which such infringement or violation continues.

Penalty for depositing filth, etc., on the wharves or foreshore.

108. 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 wharves, quays, etc., without permission.

109. (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, 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. Such expenses shall, on the application of the Board, be recoverable under a Magistrate's warrant as if the amount were a fine inflicted by such Magistrate.

Penalty for understating quantity or weight of goods, or incorrectly describing them.

110. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight, 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

(Chapter XII.—Penalties. Chapter XIII.—Miscellaneous.)

to pay to the Board such sum not exceeding twice the proper rates on the 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 Magistrate's warrant as if it were a fine inflicted by such Magistrate.

111. 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. Penalty for evading rates, etc.

112. 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 Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel: Provided that no Magistrate shall issue such a warrant until the master of the vessel has been summoned to appear before him and, 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 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. Recovery of value of damage to property of Board.

113. Save as otherwise provided, no Magistrate other than a Magistrate of the first or second class shall try any offence against this Act or against any by-law published under section 100. Cognizance of offences against Act or by-laws.

CHAPTER XIII.

MISCELLANEOUS.

114. 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 Customs Collector under existing law.

115. 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 until the expiration of one month after notice in writing has been given to him stating the cause of action or after the expiration of six months from the date on which the cause of action for such suit or proceeding arose. Limitation of proceedings in respect of things done under the Act.

(Chapter XIII.—Miscellaneous.)

Saving of liability of Board for acts of officers or servants.

116. (1) 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, 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 ;

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.

(2) Notwithstanding anything contained in sub-section (1), the Board may, in any special case, with the sanction of the Local Government, award compensation to any person for any act done, default made or damage caused by the Board or any of its employees.

Power of Local Government to make rules under the Act.

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

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

(a) the qualifications of persons to be elected as Trustees of the Board ;

(b) the salary and allowances to be paid to the Chairman, Vice-Chairman and persons appointed to act during their absence on leave and the conditions and restrictions upon and under which the same are payable ;

(c) the fees payable to the Chairman, Vice-Chairman and other Trustees of the Board for attendance at meetings and the conditions and restrictions upon and under which such fees are payable ;

(d) the enquiry into and decision of objections referred to in section 18 ;

(e) the conditions subject to which the Board may relinquish the performance of any of the services specified in clauses (a) and (b) of sub-section (1) of section 38 or enter into any agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 39 ;

(f) the form of the receipt to be given under sub-section (3) of section 38 by the Board, or under sub-section (1) of section 41 by a person to whom any services have been relinquished ; and

(g) the form of annual estimates of income and expenditure to be laid before the Board under section 86.

(3) The power to make rules under this section is subject to the following conditions :—

- (a) a draft of the rules shall be published in the *Fort St. George Gazette* and the *Malabar District Gazette* ;
- (b) such draft shall not be further proceeded with until one month after such publication ;
- (c) all rules made under this section shall be published in the *Fort St. George Gazette* and the *Malabar District Gazette*, and upon such publication shall have effect as if enacted in this Act.

118. The Chairman shall supply 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.

119. 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 *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, the Secretary of State for India in Council ; and the rights of all creditors of the Board under this Act shall continue as against the Secretary of State for India in Council to the extent of the property so transferred to and vested in him.

Power of Local Government to take possession of works and cancel powers of the Board.

MADRAS ACT No. I OF 1926.¹

[THE MADRAS INDIAN PORTS (AMENDMENT) ACT, 1925.]

[26th January 1926.]

An Act to amend the Indian Ports Act, 1908, in its application to the Presidency of Madras.

WHEREAS it is expedient to amend the Indian Ports Act, 1908, in its application to the Presidency of Madras, and

Preamble.

Act XV of 1908.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 13th October 1925—Part IV, page 160.

whereas the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the “Madras Indian Ports (Amendment) Act, 1925”.

Amendment of Part II of the First Schedule of Act XV of 1908. 2. For clause (a) of Explanation 1 to Part II of the First Schedule to the Indian Ports Act, 1908, the following clause shall be substituted, namely,—

“Ship” means a vessel propelled solely by wind power and “steamer” any vessel other than a ship.

THE ANDHRA UNIVERSITY ACT, 1925.

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SCHEDULE.

*(Chapter I.—Preliminary.)*MADRAS ACT No. II OF 1926.¹

[THE ANDHRA UNIVERSITY ACT, 1925.]

[26th January 1926.]

WHEREAS it is expedient to constitute and incorporate a Preamble.
University in and for the Telugu districts of the Presidency
of Madras ;

AND WHEREAS the previous sanction of the Governor-
General has been obtained to the passing of this Act ; It is
hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

1. (1) This Act may be called the Andhra University Short title,
Act, 1925.

(2) It shall come into force on such dates and in such extent and
local areas as the ² [Provincial Government] may, by notifica-
tion, appoint.

(3) From the date of the coming into force of this Act
the Madras University Act, 1923, shall not apply in areas to
which the provisions of this Act apply.

(4) The ² [Provincial Government] may, by notification,
exclude any district or part of a district or any college or
institution from the operation of this Act.

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

(a) 'Affiliated College' means a college within the
University area already affiliated to the Madras
University or a College established by or affiliated
to the University as providing courses of study
qualifying students for admission to University
examinations. It includes a college in Arts or
Science and professional, technical or techno-
logical college.

¹ For Statement of Objects and Reasons, see *Port St. George Gazette*, Part IV, dated 11th August 1925, pages 148-150 ; and for Proceedings in Council, see Proceedings, dated 20th August 1925, pages 363-392 ; *ibid*, dated 21st August 1925, pages 499-519 of Volume XXIV ; *ibid*, dated 28th October 1925, pages 97-103, 122-129 ; *ibid*, dated 29th October 1925, pages 343-350, 375-381 ; *ibid*, dated 30th October 1925, pages 492-530 ; *ibid*, dated 2nd November 1925, pages 731-773 ; *ibid*, dated 3rd November 1925, pages 817-856 ; *ibid*, dated 4th November 1925, pages 889-944 ; *ibid*, dated 5th November 1925, pages 974-1024 ; *ibid*, dated 6th November 1925, pages 1035-1062 of Volume XXV of the Madras Legislative Council Proceedings.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

(Chapter I.—Preliminary.)

- (b) 'University College' means a college which is established or recognized by the University as making provision for honours or post-graduate courses of study qualifying students for admission to the higher Degrees of the University according to the Regulations prescribed.
- (c) 'First-grade College' means a college which is recognized by the University as providing courses of study qualifying students for admission to the examinations for the ordinary Degree in Arts or Science in accordance with the Regulations prescribed.
- (d) 'Second-grade College' means a college which is recognized by the University as providing courses of study qualifying students for admission to the Intermediate Examination in Arts and Science according to the Regulations prescribed but not to the Degree examinations of the University.
- (e) 'Special Grade College' means an institution providing courses of study in Oriental languages or in other special subjects and preparing students for degrees, titles or diplomas in accordance with the Regulations prescribed.
- (f) 'District' means a district within the area comprising the present districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, ¹[or] Nellore, ²[. . .] to which this Act applies.
- (g) 'Hostel' means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act.
- (h) 'Prescribed' means prescribed by the Statutes, Ordinances or Regulations.
- (i) 'Principal' means the head of a college.
- (j) 'Registered graduates' means graduates registered under conditions prescribed in this behalf.
- (k) 'Teachers of the University' means teachers appointed by the University to give instruction on its behalf.
- (l) 'Teachers' means Professors, Readers and Lecturers and such persons giving instruction in the University or in any affiliated college as may be declared by the Statutes to be teachers.

¹ This word was inserted by section 2 of the Andhra University (Second Amendment) Act, 1929 (Madras Act VI of 1929).

² The words "Bellary, Anantapur, Cuddapah, Kurnool or Chittoor" were omitted by *ibid.*

(Chapter I.—Preliminary. Chapter II.—The University.)

- (m) 'University' means the Andhra University as constituted under this Act.
- (n) 'University area' means the area comprising the districts to which this Act applies.
- (o) 'University Professor' means a person appointed as such by the University.

CHAPTER II.—THE UNIVERSITY.

3. (1) There shall be constituted in and for the area ^{The Univer-} comprising the present districts of Ganjam, Vizagapatam, ^{sity.} West Godavari, East Godavari, Kistna, Guntur ¹[and] Nellore, ²[. . .] a University by the name of the Andhra University which shall consist of a Chancellor, a Pro-Chancellor, a Vice-Chancellor, a Senate, a Syndicate and an Academic Council; it shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the said corporate name.

(2) The headquarters of the University shall be located at ³ [Vizagapatam].

4. The University shall have the following powers, ^{Powers of} namely :— ^{the Univer-} ^{sity.}

- (1) to provide for instruction in such branches of learning as may be considered suitable and to make provision for research and for the advancement and dissemination of knowledge ;
- (2) to hold examinations and to confer degrees and other academic distinctions on persons who have pursued a course of study in the University ;
- (3) to promote the development of the study of Telugu, Kanarese, Urdu and Oriya and their use as media of instruction and examination ;
- (4) to confer degrees and other academic distinctions on persons who have carried on research under conditions prescribed ;
- (5) to confer honorary degrees or other distinctions on approved persons under conditions prescribed ;
- (6) to institute Professorships, Readerships, Lecturer-ships and any other teaching posts required by the University ;
- (7) to hold and manage endowments and to institute and award fellowships, scholarships, exhibitions, medals and prizes ;

¹ This word was inserted by section 3 of the Andhra University (Second Amendment) Act, 1929 (Madras Act VI of 1929).

² The words " Bellary, Anantapur, Cuddapah, Kurnool and Chittoor " were omitted by *ibid.*

³ This word was substituted for the word " Bezvada " by section 2 of the Andhra University (Amendment) Act, 1929 (Madras Act IV of 1929).

(Chapter II.—The University.)

- (8) to maintain colleges and hostels, to recognize colleges and hostels not maintained by the University and to withdraw such recognition ;
- (9) to erect, equip and maintain laboratories and libraries ;
- (10) to fix fees and to demand and receive such fees as may be prescribed ;
- (11) to make grants from the funds of the University for the maintenance of a University Corps ;
- (12) to institute and provide funds for the maintenance of
- (a) a Publication Bureau,
 - (b) an Employment Bureau,
 - (c) Students' Unions,
 - (d) University Extension Boards ;
- (13) to co-operate with other Universities and authorities in such manner and for such purposes as may be determined ; and
- (14) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, to cultivate and promote arts, sciences, professional studies, technology and other branches of learning including Oriental and to promote the interests of its students.

University open to all classes and creeds.

5. No person shall be excluded from membership of any of the authorities of the University or from admission to any degree or course of study on the sole ground of sex, race, creed, class or caste and it shall not be lawful for the University to adopt or impose on any person any test whatsoever relating to religious belief or profession in order to entitle him to be admitted thereto as a teacher or student or to hold any office therein or to graduate thereat or to enjoy or exercise any privilege thereof except where in respect of any particular benefaction accepted by the University such test is made a condition thereof :

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Statutes to those not unwilling to receive it.

Admission of educational institutions as colleges.

6. (1) The colleges in the University area that are now affiliated to the Madras University shall be, and shall have the privileges of, affiliated colleges under the Act.

(2) The University shall have power to admit a college to affiliation as a University College, a First-grade College, a Seco..d-grade College or a Special Grade College in accordance with Statutes.

(Chapter II.—The University.)

(3) The University shall not, however, establish a University College or a First Grade College nor affiliate any institution as a University College, ¹ [. . .] unless the buildings of the institution are situate ² [in the headquarters of the University] or within ten miles of the limits thereof.

³ [(4) * * * * *]

7. Every student of the University shall reside in a hostel Residence. or under such conditions as may be prescribed.

⁴ [8. (1) The Provincial Government shall have the right Visitation. to cause an inspection to be made, by such person or persons as it may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipment, and of any institutions maintained by or affiliated to the University, and also of the teaching and other work conducted or done by the University, and to cause an inquiry to be made in respect of any matter connected with the University. The Provincial Government shall in every case give notice to the University of its intention to cause such inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(2) The Provincial Government shall communicate to the Senate and to the Syndicate its views with reference to the results of such inspection or inquiry and may, after ascertaining the opinions of the Senate and Syndicate thereon, advise the University upon the action to be taken.

(3) The Syndicate shall, within such time as the Provincial Government may fix, report to it the action, if any, which is proposed to be taken, or has been taken, upon such advice. The report shall be accompanied by the opinion of the Senate thereon.

(4) The Provincial Government may, where action has not been taken by the University within a reasonable time to its satisfaction, after considering any explanation furnished or representation made by the Senate or the Syndicate, issue such directions as it may think fit, and the University shall comply with such directions.]

¹ The words " or as a First Grade College " were omitted by section 2 of the Andhra University (Third Amendment) Act, 1930 (Madras Act XIII of 1930).

² These words were substituted for the words "in the towns of Vizagapatam, Rajahmundry or Anantapur " by section 2 of the Andhra University (Second Amendment) Act, 1930 (Madras Act XII of 1930).

³ Sub-section (4) was omitted by section 2 (ii) of the Andhra University (Third Amendment) Act, 1930 (Madras Act XIII of 1930).

⁴ This section was substituted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

CHAPTER III.—OFFICERS OF THE UNIVERSITY.

Officers
of the
University.

9. The following shall be the officers of the University :—
- (i) The Chancellor,
 - (ii) The Pro-Chancellor,
 - (iii) The Vice-Chancellor,
 - (iv) The Registrar, and
 - (v) such other officers as the Statutes may declare to be officers of the University.

The Chan-
cellor.

10. (1) The Governor of Madras shall be the Chancellor. He shall, by virtue of his office, be the head of the University and the President of the Senate and shall, when present, preside at meetings of the Senate and at Convocations of the University ; he shall exercise such other powers and perform such other duties as may be imposed on him under the provisions of this Act.

(2) Where power is conferred upon the Chancellor to nominate persons to any authorities, he shall, to the extent necessary, nominate persons to represent communities or interests not otherwise adequately represented.

The Pro-
Chancellor.

11. (1) The Pro-Chancellor of the University shall be nominated by the Chancellor and shall hold office for a period of three years.

(2) In the absence of the Chancellor, or during the Chancellor's inability to act, the Pro-Chancellor shall exercise all the functions of the Chancellor.

The Vice-
Chancellor.

12. (1) (a) The Vice-Chancellor shall be a whole-time officer of the University and shall be elected by the Senate.

(b) He shall hold office for a period of three years and shall be eligible for re-election and may be paid such salary as shall be prescribed.

(c) He shall be the principal executive officer of the University and shall exercise general control over its affairs.

(d) He shall, by virtue of his office, be a member and Chairman of the Syndicate and of the Academic Council, and shall preside at the meetings of the Senate in the absence of the Chancellor and the Pro-Chancellor.

(e) He shall be entitled to be present at and address at any stage any meeting of any authority of the University but not to vote thereat, unless he is a member of such authority.

(f) He shall have power to convene meetings of the Senate, the Syndicate and the Academic Council.

(g) It shall be his duty to see that the provisions of this Act, the Statutes, Ordinances and Regulations are duly observed and he may exercise all powers necessary for this purpose.

(Chapter III.—Officers of the University. Chapter IV.—
Authorities of the University.)

(h) He shall give effect to the orders of the Syndicate regarding the appointment, suspension and dismissal of the teachers and servants of the University.

(2) (a) When, with regard to any matter in which an officer or authority may take action, the Vice-Chancellor considers immediate action desirable, he may with the sanction of the Chancellor take such action as may be necessary but shall, as soon as may be, report the action taken to the officer or authority concerned.

(b) An appeal shall lie to the Syndicate against any action taken by the Vice-Chancellor under this sub-section affecting any person in the service of the University, at the instance of such person. Such appeal shall be filed within thirty days from the day on which such person has notice of the action taken.

(3) In the temporary absence of the Vice-Chancellor on leave, by reason of illness or other cause, or pending the filling of a vacancy caused in any other manner, his duties shall be performed in such manner as the Syndicate may, subject to the approval of the Chancellor, direct.

13. (1) The Registrar shall be a whole-time paid officer ^{The Registrar} of the University appointed by the Senate from among three ^{trar.} persons recommended by the Syndicate.

(2) He shall be appointed for five years and shall be eligible for reappointment.

(3) The Registrar shall act as the Secretary of the Syndicate, the Senate and the Academic Council and shall exercise such powers and perform such duties as may be prescribed.

CHAPTER IV.—AUTHORITIES OF THE UNIVERSITY.

14. The following shall be the authorities of the University :— Authorities.

- (i) The Senate,
- (ii) „ Syndicate,
- (iii) „ Academic Council,
- (iv) „ Faculties,
- (v) „ Boards of Studies, and
- (vi) such other authorities as the Statutes may declare to be authorities of the University.

The Senate.

15. The Senate shall consist of the following persons, ^{The Senate.} namely :—

Class I—Ex-officio Members.

- (1) The Chancellor,
- (2) „ Pro-Chancellor,
- (3) „ Vice-Chancellor,

(Chapter IV.—Authorities of the University.)

- (4) The Director of Public Instruction,
- (5) „ Surgeon-General with the Government of Madras,
- (6) „ Director of Industries,
- (7) „ Director of Agriculture,
- (8) „ Principals of affiliated colleges,
- (9) „ whole-time University professors paid from University funds, and
- (10) „ members of the Syndicate who are not otherwise members of the Senate.

Class II—Life Members.

- (1) Such number of persons not exceeding three as may be appointed, on the recommendation of the Syndicate, by the Senate to be life members on the ground that they have rendered eminent services to education ;
- (2) all persons who make a donation of not less than Rs. 25,000 to or for the purposes of the University.

Class III—Other Members.

- (1) Fifteen persons elected by registered graduates from among themselves according to the principle of proportional representation by means of the single transferable vote ;
- (2) three persons elected by the Academic Council from among its members ;
- (3) ¹[two] persons elected from among themselves by the ²[. . .] members of the Legislative Council of Madras, who are ³[residents in the area for the time being comprised within the districts of ⁴[. . .] Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor] ⁵[and three persons elected from among themselves by the members of the Legislative Assembly of Madras who are residents in that area] ;

¹ This word was substituted for the word "five" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² The word "non-official" was omitted by *ibid.*

³ These words were introduced by section 2 (i) of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930) read with Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ The word "Ganjam" was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ These words were inserted by *ibid.*

(Chapter IV.—Authorities of the University.)

- (4) two persons elected from among themselves by the headmasters of secondary ¹ [schools recognized for the time being by the Provincial Government in the area which on the 10th June, 1930, was comprised in the districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor] ² [. . .] ;
- (5) (a) one person elected from among themselves by the members of the municipal councils and taluk boards and such members of the district board as are not members of these bodies in each district in the University area ³ [. . .] ;
- (b) two persons elected from among themselves by the members of the municipal councils and taluk boards and such members of the district board as are not members of these bodies in each of the districts of Bellary, Anantapur, Cuddapah, Kurnool and Chittoor ;
- (6) two persons elected from among themselves by such of the landholders ⁴ [of ⁵ (the area for the time being comprised within the districts of) Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor] as are included in the electoral roll for ⁶ [any landholders constituency] of the Madras Legislative ⁷ [Assembly] ;
- (7) twelve persons nominated by the Chancellor of whom not less than four shall be nominated to secure the representation of communities and interests not otherwise adequately represented and not less than four shall be nominated to represent the Adi-Andhras and other depressed classes ;
- (8) (a) every association making a donation of not less than Rs. 20,000 and every person making a donation

¹ These words were introduced by section 2 (ii) of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930) read with Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² The words "recognized by the Local Government" were omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

³ The words "other than the districts of Bellary, Anantapur, Cuddapah, Kurnool and Chittoor" were omitted by section 2 (iii) of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

⁴ These words were substituted for the words "of the University area" by section 2 (iv), *ibid.*

⁵ These words were substituted for the words "any of the districts of Ganjam" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶ These words were substituted for the words "the landholders constituency" by *ibid.*

⁷ This word was substituted for the word "Council" by *ibid.*

(Chapter IV.—Authorities of the University.)

of not less than Rs. 10,000 to or for the purposes of the University shall be entitled to nominate one person who shall be a member for three years ;

(b) every association or person making an annual contribution of not less than Rs. 3,000 to or for the purposes of the University shall be entitled to nominate one member who shall be a member so long as the annual contribution continues ;

(9) five persons to represent the chief languages in the University area chosen by election in such manner as may be prescribed and allotted as follows :—

Telugu	..	..	..	Two.
Kanarese	..	..	..	} One each.
Urdu	..	..	..
Oriya	..	..	..

Save as otherwise provided, members of the Senate other than *ex officio* members shall hold office for a period of three years :

Provided, however, that a person nominated or elected in his capacity as a member of a particular body or the holder of a particular appointment shall not, if he ceases to be member of that body or the holder of that appointment, as the case may be, for a period of less than three months, cease to be a member of the Senate.

Powers of
the Senate.

16. (1) The Senate shall be the supreme governing body of the University and shall have power to review the action of the Syndicate and the Academic Council (save where the Syndicate and the Academic Council have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances).

(2) In particular and without prejudice to the generality of the foregoing power, it shall have power

- (a) to make Statutes and to amend or repeal the same and to consider, modify or cancel Regulations and Ordinances ;
- (b) to provide for instruction and training in such branches of learning as it thinks fit ;
- (c) to institute, maintain and manage or recognize and control colleges ;
- (d) to provide for research and the advancement and dissemination of knowledge ;
- (e) to institute Professorships, Readerships, Lecturerships and other teaching posts required by the University ;
- (f) to establish, equip and maintain University laboratories and libraries ;

(Chapter IV.—Authorities of the University.)

- (g) to affiliate to the University colleges under conditions to be prescribed in this behalf and to withdraw affiliation from colleges, after consultation with the Academic Council ;
 - (h) to confer degrees and other academic distinctions on persons who—
 - (i) shall have pursued an approved course of study in an affiliated college and shall have passed the prescribed examinations of the University, or
 - (ii) shall have carried on research under conditions prescribed ;
 - (i) to confer honorary degrees or other distinctions on approved persons in the manner prescribed ;
 - (j) to institute fellowships, travelling fellowships, scholarships, exhibitions, medals and prizes ;
 - (k) to provide for lectures and instruction to persons not being students of the University and to grant diplomas to them ;
 - (l) to establish, maintain and manage hostels ;
 - (m) to recognize hostels not maintained by the University and to withdraw recognition therefrom ;
 - (n) to supervise and control the residence and discipline of the students of the University and to make arrangements for promoting their health and general welfare ;
 - (o) to prescribe the fees to be charged for the affiliation of colleges, for admission to the examinations, degrees and diplomas of the University and for the registration of graduates ;
 - (p) to consider and pass resolutions on the annual report, the annual accounts and the financial estimates of the University ;
 - (q) to enter into any agreement with the Government or with a private management for assuming the management of any institution and taking over its properties and liabilities or for any other purpose not repugnant to the provisions of this Act ;
 - (r) to co-operate with other Universities and authorities for such purposes and in such manner as it determines ;
 - (s) to delegate such of its powers as it deems fit to any authority or authorities constituted under this Act.
- (3) The Senate shall exercise all the powers of the University not otherwise provided for and all powers requisite to give effect to the provisions of the Act.

(Chapter IV.—Authorities of the University.)

Meetings of
the Senate.

17. (1) There shall be at least two ordinary meetings of the Senate in a year, one of which shall be called the annual meeting.

The Senate may also meet at such other times as it or the Vice-Chancellor may from time to time determine.

(2) Upon a requisition in writing signed by not less than twenty members of the Senate, the Vice-Chancellor shall convene a meeting of the Senate.

(3) Twenty members shall form the quorum for a meeting of the Senate.

(4) In the absence of the Chancellor, the Pro-Chancellor and the Vice-Chancellor from any meeting of the Senate, the members present at the meeting shall choose one of their number to preside thereat.

The Syndi-
cate.

18. The Syndicate shall, in addition to the Vice-Chancellor, consist of the following persons, namely :—

¹ [Class I—*Ex officio* Members.

(1) The Director of Public Instruction.

(2) The Financial Secretary to the ² (Provincial Government).]

Class II—*Other* Members.

(1) Five persons elected by the Senate from among its members ;

(2) three persons elected by the Academic Council from among its members ;

(3) ³ [three persons] nominated by the Chancellor.

Provided always that no teacher of the University shall be elected or nominated a member of the Syndicate.

Save as otherwise provided, members of the Syndicate other than *ex officio* members shall hold office for a period of three years :

Provided, however, that a person nominated or elected in his capacity as a member of a particular body or as the holder of a particular appointment shall not, if he ceases to be member of that body or the holder of that appointment, as the case may be, for a period of less than three months, cease to be a member of the Syndicate.

¹ This heading and the items thereunder were substituted for the original heading and the item there-under, by section 3 (1) of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

³ These words were substituted for the words "two persons" by section 3 (2) of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

*(Chapter IV.—Authorities of the University.)***19. The Syndicate**Powers and
duties of the
Syndicate.

- (a) shall direct the form, custody and use of the common seal of the University ;
- (b) shall hold, control and administer the property and funds of the University ;
- (c) shall, on the recommendation of the committee of selection constituted by the Statutes, appoint the teachers of the University, fix their emoluments and define their duties and the conditions of their service ;
- (d) shall have power to suspend or dismiss teachers of the University subject to such Statutes as may be framed in this behalf ;
- (e) shall appoint the servants of the University, fix their emoluments and define their duties and the conditions of their service ;
- (f) shall have power to suspend or dismiss servants of the University ;
- (g) shall award prizes, medals and scholarships in accordance with the rules laid down by the Senate ;
- (h) shall appoint examiners in consultation with the Boards of Studies and fix their fees ;
- (i) shall, subject to the provisions of this Act and the Statutes, arrange for and direct the inspection of all affiliated colleges and hostels ;
- (j) shall conduct the University examinations and publish the results thereof ;
- (k) shall have the power to establish, manage and control a Publication Bureau, an Employment Bureau, Students' Unions and University Extension Boards ;
- (l) shall have power to accept on behalf of the University endowments, bequests, donations and other transfers of property made to it ; all such endowments, bequests, donations and transfers shall be reported to the Senate at its next meeting ;
- (m) (i) shall regulate and determine all matters concerning the University in accordance with, and exercise such other powers as may be conferred by and perform such other duties as may be imposed by this Act, the Statutes and the Ordinances ;
(ii) shall administer all funds placed at the disposal of the University for specific purposes ;
- (n) shall charge and collect such fees as may be prescribed.

(Chapter IV.—Authorities of the University.)

The Finance Committee. ¹ [19-A. There shall be constituted a Finance Committee which shall consist of the following persons, namely :—

- (1) the Vice-Chancellor ;
- (2) the Financial Secretary to the ² (Provincial Government) ;
- (3) one member appointed by the Syndicate from among its members, provided that no one who is nominated to the Syndicate by the Chancellor shall be eligible for appointment under this clause ; and
- (4) one member nominated by the Chancellor from among the three persons nominated by him to the Syndicate.]

Financial estimates, etc., of the University to be referred to the Finance Committee for scrutiny and opinion. ¹[19-B. The financial estimates of the University its accounts and all proposals involving expenditure for which no provision has been made in the budget or involving expenditure in excess of the amount provided in the budget of the year shall be referred to the Finance Committee for scrutiny and opinion before they are taken up for final consideration by the Syndicate :

Provided that the Vice-Chancellor may, in cases of emergency, for reasons to be recorded in writing, incur any expenditure for which no provision has been made in the budget or which is in excess of the amount provided in the budget without such previous reference to the Finance Committee.]

Annual report.

20. The Syndicate shall prepare an annual report of the University and submit it to the Senate on or before such date as may be prescribed by the Statutes.

The report shall be considered by the Senate at its next annual meeting. The Senate may pass resolutions thereon and communicate the same to the Syndicate which shall take action in accordance therewith. The Syndicate shall inform the Senate of the action taken by it. A copy of the report with a copy of the resolutions thereon, if any, of the Senate shall be submitted to the ² [Provincial Government] for information.

Annual accounts.

21. (1) The Syndicate shall prepare the annual accounts of the University and submit them to such audit as the ²[Provincial Government] may direct. The accounts when audited shall be published in the ³ [Official Gazette] and copies thereof, together with copies of the audit report, shall be submitted to the Senate and the ³ [Provincial Government].

¹ Sections 19-A and 19-B were inserted by section 4 of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

³ These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(Chapter IV.—Authorities of the University.)

(2) The Syndicate shall also prepare, before such date as may be prescribed by the Statutes, the financial estimates for the ensuing year and submit the same to the Senate.

(3) The annual accounts and the financial estimates shall be considered by the Senate at its annual meeting and the Senate may pass resolutions with reference thereto and communicate the same to the Syndicate which shall take action in accordance therewith.

22. (i) The members of the Academic Council in addition to the Vice-Chancellor shall be—

The
Academic
Council.

Class I—Ex officio Members.

- (1) The Director of Public Instruction.
- (2) ,, University Professors.
- (3) ,, Principals of affiliated colleges.

Class II—Other Members.

- (1) Three persons who are not teachers elected by the Senate from among its members ;
- (2) members of the Senate appointed under clause (9) of class III of section 15 to represent the chief languages in the University area.

(ii) The Academic Council as constituted under sub-clause (i) may co-opt as members teachers of the affiliated colleges not exceeding fifteen, in accordance with the Regulations and so as to secure adequate representation of different branches of learning and of the colleges.

(iii) Save as otherwise provided, members of the Academic Council other than *ex officio* members shall hold office for a period of three years :

Provided, however, that a member nominated or elected in his capacity as a member of a particular body or the holder of a particular appointment shall not, if he ceases to be member of that body or the holder of that appointment, as the case may be, for a period of less than three months, cease to be a member of the Academic Council.

23. (1) The Academic Council shall, subject to the provisions of this Act and the Statutes, have the power by Regulations of prescribing all courses of study and of determining curricula and have general control of teaching within the University and be responsible for the maintenance of the standards thereof.

Powers of
the
Academic
Council.

It shall have power to make Regulations consistent with this Act and the Statutes relating to all matters which by this Act or the Statutes may be provided for by Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, it shall have power—

- (a) to advise the Syndicate on all academic matters ;

(Chapter IV.—Authorities of the University.)

- (b) to constitute from among its own members such faculties as may be prescribed ;
- (c) to formulate, modify or revise schemes for the constitution or reconstitution of departments of teaching ;
- (d) to make proposals to the Senate for the institution of Professorships, Readerships, Lecturerships or other teaching posts and in regard to the duties and emoluments thereof ;
- (e) to make recommendations to the Syndicate for the recognition of teachers qualified to give instruction in affiliated colleges and hostels ;
- (f) to call for reports from the persons engaged in research and to make recommendations to the Syndicate thereon ;
- (g) to control and manage the University library or libraries, to frame rules regarding its or their use and to appoint a library committee or committees ;
- (h) to make Regulations for the encouragement of co-operation and reciprocity among colleges with a view to promoting academic life ;
- (i) to make Regulations regarding the admission of students to the University or prescribing examinations to be recognized, with the previous sanction of the ¹ [Provincial Government] as equivalent to University examinations or the further qualifications mentioned in sub-section (1) of section 33 for admission to the degree courses of the University ;
- (j) to make Regulations relating to courses, examinations and the conditions on which students shall be admitted to examinations for the degrees of the University ;
- (k) to make Regulations relating to the use of Telugu, Kanarese, Urdu and Oriya as media of instruction and examination ;
- (l) to decide the conditions under which exemptions relating to the admission of students to examinations may be given ;
- (m) to appoint a standing committee and to delegate to it power to execute any of the functions assigned by this Act to the Academic Council.

The Faculties and Boards of Studies.

24. The constitution and functions of the Faculties and Boards of Studies shall be prescribed by the Statutes :

Provided that no person shall be a member of a Faculty who is not a member of the Academic Council.

¹ These words were substituted for the words "Governor-General in Council" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

Chapter IV.—Authorities of the University. Chapter V.—General.)

25. (i) Every Faculty shall comprise such departments Departments of teaching. of teaching as may be prescribed by the Regulations.

(ii) Separate Boards of Studies shall be attached to each department of teaching.

CHAPTER V.—GENERAL.

26. No person shall be qualified for election or nomination Disqualification for membership. as a member of any of the authorities of the University if he—

(a) is at the date of election or nomination of unsound mind, a deaf-mute or suffers from contagious leprosy, or

(b) is an uncertificated bankrupt or undischarged insolvent, or

¹ [(c) has been convicted and sentenced by a criminal court to transportation or to imprisonment for a period of more than one year for an offence, not being of a political character, unless such sentence has been reversed or the offence has been pardoned or a period of five years has elapsed from the date of the expiration of the sentence.]

27. Save as otherwise provided, if any question arises Disputes as to constitution of University authorities. whether a person has been duly elected or nominated as or is entitled to be a member of any authority of the University, the question shall be referred to the Chancellor whose decision thereon shall be final.

28. All the authorities of the University shall have power Constitution of committees. to appoint committees; such committees may, unless there be some special provision to the contrary, consist of members of the authority concerned and of such other persons, if any, as the authority in each case may think fit.

29. No act or proceeding of any authority or other body Proceedings of University bodies not invalidated by vacancies. of the University shall be deemed invalid by reason only of some defect in the constitution of the authority or body or by reason of the existence of a vacancy or vacancies among its members or the invalidity of the election of any of its members.

30. All vacancies among the members of any authority Filling of vacancies. or body of the University shall be filled as soon as conveniently may be by the person or body who appointed, elected or co-opted the member whose place has become vacant:

² [Provided that vacancies arising by efflux of time among elected members of any authority or body of the University may be filled at elections which may be fixed by the Vice-Chancellor to take place on such days, not earlier than two months from the date on which the vacancies arise, as he thinks fit.]

¹ Clause (c) of section 26 was substituted for the original by section 3 of the Andhra University (Third Amendment) Act, 1930 (Madras Act XIII of 1930).

² This proviso was added by section 2 of the Andhra University (Third Amendment) Act, 1929 (Madras Act XVI of 1929).

(Chapter V.—General. Chapter VI.—Teaching and Admission of Students. Chapter VII.—Miscellaneous.)

Removal from membership of the University.

31. The Senate may, on the recommendation of not less than two-thirds of the members of the Syndicate for the time being in India and by the votes of not less than two-thirds of the members present and voting, remove the name of any person from the register of graduates and remove any person from membership of any authority or board of the University if he has been convicted by a Court of law of what in the opinion of the Senate is a ¹[non-political] offence involving moral delinquency or if he has been guilty of scandalous conduct and for the same reasons may withdraw any degree or diploma conferred or granted by the University.

The Senate may also remove any person from the membership of any authority of the University if he becomes of unsound mind or a deaf-mute or suffers from contagious leprosy or has applied to be or is adjudicated a bankrupt or insolvent.

CHAPTER VI.—TEACHING AND ADMISSION OF STUDENTS.

Attendance at recognized instruction.

32. (1) No attendance at any instruction other than that conducted or recognized by the University shall qualify for admission to an examination of the University other than the entrance examination to the University.

(2) The authorities responsible for organizing such instruction shall be those prescribed.

(3) The courses of study and curricula shall be those prescribed.

Admission to University courses.

33. (1) No student shall be eligible for admission to a course of study qualifying for admission to a post-matriculation University examination unless he has passed the examination prescribed as qualifying for admission to such course or an examination recognized by the Academic Council, with the previous sanction of the ²[Provincial Government] as equivalent thereto and possesses such further qualifications, if any, as may be prescribed.

(2) Every candidate for a University examination shall, unless exempted from the provisions of this sub-section by an order of the Syndicate, made in accordance with conditions laid down by the Academic Council, be an enrolled member of an affiliated college.

CHAPTER VII.—MISCELLANEOUS.

Conditions of service.

34. (1) Save as otherwise provided, every salaried officer and teacher of the University shall be appointed under a written contract.

¹ This word was substituted for the word "serious" by section 4 of the Andhra University (Third Amendment) Act, 1930 (Madras Act XIII of 1930).

² These words were substituted for the words "Governor-General in Council" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

(Chapter VII.—Miscellaneous. Chapter VIII.—University Funds, etc.)

(2) The contract shall be lodged with the Registrar and a copy thereof shall be furnished to the officer or teacher concerned.

35. Where any pension, insurance or provident fund has been constituted by the University for the benefit of its officers, teachers or servants, the ¹[Provincial Government] may declare that the provisions of the Provident Funds Act, 1897, shall apply to such fund as if it were a Government Provident Fund. Pension or provident fund.

CHAPTER VIII.—UNIVERSITY FUNDS, ETC.

36. (1) The University may establish under its direct control and management such scientific and technical colleges as may be agreed upon from time to time between the University and ² [the Provincial Government]. Establishment of scientific and technical colleges.

³ [* * * *]

37. The University shall have a fund to which shall be credited— Funds of the University.

(1) its income from fees, endowments and grants, if any; ⁴ [. . .]

(2) contributions which may be made by the ⁵[Provincial Government] on such conditions as they may impose towards the development of laboratories, libraries, museums and workshops and the salaries of such teachers of the University as are appointed for research and for the advancement and dissemination of knowledge in particular branches of learning; and

⁶ [* * * *]

⁷ [37-A. (1) The University shall have a fund called the Foundation Fund. Foundation Fund.

(2) The Foundation Fund shall consist of:

(a) the sum of twenty-seven lakhs of rupees which shall be given to it by the ⁵[Provincial Government];

¹ These words were substituted for the words "Governor-General in Council" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

² These words were substituted for the words "the Government" by *ibid.*

³ Sub-section (2) was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ The word "and" was omitted by section 5 of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

⁵ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

⁶ Clause (3) was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

⁷ Sections 37-A, 37-B and 37-C were inserted by section 6 of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

(Chapter VIII.—University Funds, etc. Chapter IX.—
Statutes, Ordinances and Regulations.)

- (b) any contributions to this fund which may be made by the ¹[Provincial Government], the ²[Central Government], any local or other public body, or others ;
- (c) any contributions to this fund which may be made by the University ; and
- (d) the sum of three lakhs and eighty-five thousand rupees in securities and cash which stands to the credit of the Foundation Fund of the University.
- (3) The Foundation Fund shall be invested, and be kept invested, in securities, issued or guaranteed by the ² [Central Government] or by ¹[Provincial Government]s in British India, and such investments shall not be varied without the consent of the Chancellor.
- (4) The corpus of the Foundation Fund shall be kept intact but the interest thereon may be utilized for the purposes of the University.]

Constitution
of other
funds, etc.

³[37-B. The University shall have such other funds and maintain such accounts as the Senate may determine.]

⁴[37-C. * * * * *]

Transfer of
Government
institutions
to the Uni-
versity.

38. The ¹[Provincial Government] may at any time after the passing of this Act transfer to the University the control and management of any of their institutions on such terms and conditions as may be deemed proper. ⁵[. . .]

CHAPTER IX.—STATUTES, ORDINANCES AND REGULATIONS.

Statutes.

39. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely,—

- (a) the constitution, powers and duties of the authorities of the University ;
- (b) the powers, duties and conditions of service of the officers of the University other than the Chancellor and the Pro-Chancellor ;
- (c) the method of election to the authorities of the University and, save as otherwise provided, the procedure at meetings of such authorities, including the quorum for the transaction of business by them ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

² These words were substituted for the words "Government of India" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ Sections 37-A, 37-B and 37-C were inserted by section 6 of the Andhra University (Amendment) Act, 1930 (Madras Act VIII of 1930).

⁴ This section was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ The second sentence was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

(Chapter IX.—Statutes, Ordinances and Regulations.)

- (d) the conditions of affiliation of colleges affiliated to the University ;
- (e) the giving of religious instruction ;
- (f) the classification and the mode of appointment of the teachers of the University ;
- (g) the holding of Convocations to confer degrees ;
- (h) the conferment of honorary degrees ;
- (i) the institution of a pension or provident fund for the benefit of the teachers of the University or its servants ;
- (j) the maintenance of a register of registered graduates ;
- (k) the discipline of students ; and
- (l) all matters which by this Act may be prescribed by the Statutes.

40. (1) The Statutes set out in the schedule shall have effect as if duly enacted under the provisions of this Act. Statutes how made.

(2) The Senate may take into consideration the draft of a Statute either of its own motion or on a proposal by the Syndicate.

(3) The Senate before passing a Statute taken into consideration of its own motion and affecting the powers or duties of any officer or authority of the University, shall ascertain and consider the views of the officer or authority concerned and of the Syndicate thereon.

(4) The Syndicate shall not propose the draft of a Statute—

(a) affecting the status, powers or constitution of any authority of the University until such authority is given an opportunity of expressing its opinion on the proposal ; such opinion shall be in writing and the draft Statute together with such opinion shall be considered by the Senate and submitted to the Chancellor ;

(b) affecting the conditions of affiliation of colleges to the University without consulting the Academic Council.

(5) (a) Any draft of a Statute proposed by the Syndicate and rejected by the Senate shall be submitted to the Chancellor who may refer it back to the Senate for further consideration.

(b) Every Statute passed by the Senate shall be submitted to the Chancellor who may give or withhold his assent thereto or refer it back to the Senate for reconsideration.

(c) No Statute passed by the Senate shall have validity until assented to by the Chancellor.

41. Subject to the provisions of this Act and the Statutes, Ordinances, the Ordinances may provide for all or any of the following matters, namely,—

- (a) the levy of fees in colleges maintained by the University ;

(Chapter IX.—Statutes, Ordinances and Regulations.)

- (b) the conditions of residence of the students of the University and the levy of fees for residence in hostels maintained by the University ;
- (c) the conditions of recognition of hostels not maintained by the University ;
- (d) the number, qualifications and emoluments of teachers of the University ;
- (e) the fees to be charged for courses of study given by teachers of the University, for lectures, for tutorial and supplementary instruction provided by the University and for services rendered by the University office ;
- (f) the appointment and duties of examiners ;
- (g) the conduct of examinations ; and
- (h) all matters which by this Act or by the Statutes may be provided for by the Ordinances.

**Ordinances
how made.**

42. (1) Save as otherwise provided in this section, Ordinances shall be made by the Syndicate :

Provided that the Syndicate shall consult the Academic Council in making Ordinances

- (a) affecting the appointment and duties of examiners ;
or
- (b) affecting the conditions of residence of students.

(2) All Ordinances made by the Syndicate shall take effect from such date as it may direct ; but every Ordinance so made shall be submitted as soon as may be after it is made to the Chancellor and the Senate and shall be considered by the Senate at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or modify any such Ordinance.

(3) The Chancellor may direct that the operation of any Ordinance shall be suspended until such time as the Senate has had an opportunity of considering the same.

Regulations.

43. (1) The Regulations shall be made by the Academic Council and, subject to the provisions of this Act, they may provide for all or any of the following matters, namely,—

- (a) the encouragement of co-operation and reciprocity among colleges ;
- (b) the admission of students to the University or prescribing the examinations to be recognized as equivalent to University examinations ;
- (c) the University courses and examinations and the conditions on which students of affiliated colleges shall be admitted to examinations for the degrees and diplomas of the University ;

(Chapter IX.—Statutes, Ordinances and Regulations. Chapter X.—Transitory Provisions.)

- (d) the granting of exemptions ;
- (e) the management of the University Library or Libraries ; and
- (f) the constitution of departments of teaching.

(2) All Regulations shall have effect from such date as the Academic Council may direct ; but every Regulation made by the Academic Council shall be submitted as soon as may be to the Senate which shall consider it at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or modify any such Regulation.

CHAPTER X.—TRANSITORY PROVISIONS.

44. Notwithstanding anything contained in this Act or the Ordinances, any student of a college affiliated to the University who was studying for any examination of the Madras University shall be permitted to complete his course in preparation therefor and the Madras University shall hold for such student examinations in accordance with the curricula of studies of that University for such period as may be prescribed.

Completion of courses of study of students preparing for examinations of the Madras University.

45. Notwithstanding anything contained in section 12, within three months after the passing of this Act, the first Vice-Chancellor shall be appointed by the Chancellor on a salary to be fixed by him for a period not exceeding three years on such conditions as he thinks fit.

Appointment of the first Vice-Chancellor.

46. Notwithstanding anything contained in section 13, within three months after the passing of this Act, the first Registrar shall be appointed by the Chancellor on a salary to be fixed by him for a period not exceeding two years on such conditions as he thinks fit.

Appointment of the first Registrar.

47. (1) It shall be the duty of the Vice-Chancellor to make arrangements for constituting the Senate, the Syndicate and the Academic Council within three months after the date of his appointment or such longer period not exceeding six months as the [Provincial Government] may by notification direct.

Transitory powers of the Vice-Chancellor.

(2) The Vice-Chancellor shall, with the assistance of an advisory committee the members of which shall be nominated by the Chancellor, draw up any rules that may be necessary for regulating the method of election to those authorities subject to the provisions of this Act and the approval of the Chancellor.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

(Chapter X.—*Transitory Provisions. Schedule.—The first Statutes of the University.*)

(3) The authorities constituted under sub-section (1) shall commence to exercise their functions on such date or dates as the ¹ [Provincial Government] may, by notification, direct.

(4) The Statutes, Ordinances and Regulations of the University of Madras in force at the time of the coming into force of this Act shall, so far as they are not inconsistent with the provisions of this Act, be deemed to be Statutes, Ordinances and Regulations made under this Act until they are replaced by Statutes, Ordinances and Regulations to be framed under this Act.

(5) It shall be the duty of the Vice-Chancellor to draft such Statutes, Ordinances and Regulations as may be necessary and submit them to the respective authorities competent to deal with them. Such Statutes, Ordinances and Regulations when framed shall be published in the ² [Official Gazette].

Advisory committees.

48. Until the authorities of the University are constituted under section 47, sub-section (1), the Vice-Chancellor shall, subject to the approval of the Chancellor, have power—

- (1) to appoint such advisory committees as he may think fit ; and
- (2) to appoint such clerical and menial staff as may be necessary.

Removal by Provincial Government of difficulties at the commencement of the Act.

49. If any difficulty arises as to the first constitution of any authority of the University after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, the ¹[Provincial Government], as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE.

The first Statutes of the University.

Definitions.

I. In these Statutes, unless there is anything repugnant in the subject or context,—

- (a) The 'Act' means the Andhra University Act, 1925, and 'section' means a section of the Act and 'clause' or 'sub-clause' means a clause or sub-clause of this Schedule ; and
- (b) 'Officers,' 'Authorities,' 'Professors,' 'Readers,' 'Lecturers,' 'Teachers,' 'Servants' and 'Registered Graduates' mean, respectively, Officers, Authorities, Professors, Readers, Lecturers, Teachers, Servants and Registered Graduates of the University.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(Schedule.—*The first Statutes of the University.*)

II. Subject to the provisions of the Act, the Syndicate shall have the following powers, namely—

- Powers of the Syndicate.
- (a) to provide or purchase lands, buildings, premises, furniture, laboratories, apparatus, equipment and other means needed for carrying on the work of the University ;
 - (b) to invest any moneys belonging to the University including any unapplied income in any of the securities described in section 20 of the Indian Trusts Act, 1882, with the power to vary such investments or to place on fixed deposit in any bank approved in this behalf by the [Provincial Government] any portion of such moneys not required for current expenditure ;
 - (c) to manage colleges and hostels maintained by the University ;
 - (d) to appoint a Registrar of the University.

III. The Academic Council shall constitute Faculties of Arts, Science, Medicine, Commerce, Engineering, Technology, Agriculture, Teaching, Fine Arts, Oriental languages and other branches of learning as it may find necessary from among its members.

IV. The Registrar shall, subject to the control of the Syndicate, manage the property and investments of the University. He shall be responsible for the preparation of the financial estimates and the annual accounts. Subject to the control of the Syndicate, he shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

All contracts shall be signed by the Registrar on behalf of the University. He shall exercise such other powers and perform such other duties as may be prescribed.

V. The following officers shall be appointed by the Syndicate on the recommendation of the Academic Council :—

- The Proctors and Librarian.
- (i) Proctors for the maintenance of the discipline of the students of the University
 - (ii) A Librarian for the University Library.

VI. (a) Every affiliated college or recognized hostel not maintained by the University shall be managed by a regularly constituted governing body appointed by the person or body maintaining the college or hostel the constitution of which shall be periodically reported to and approved of by the Syndicate.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

(Schedule.—The first Statutes of the University.)

(b) The appointment of teachers and superintending staff of every such college or hostel shall be made by the governing body or by any authority to whom such body may have delegated the power and all such appointments shall be subject to the approval of the Syndicate.

(c) The Senate shall have power to suspend or withdraw the recognition of any college or hostel which may not be conducted in accordance with the conditions prescribed :

Provided that no such action shall be taken without affording the management of such college or hostel an opportunity of making such representation as it may deem fit.

Honorary
Degrees.

VII. The Syndicate may, either of its own motion or on the recommendation of the Academic Council, make proposals to the Senate for the conferment of honorary degrees and shall, after the Senate assents thereto, submit such proposals to the Chancellor for confirmation :

Provided that in case of urgency the Chancellor may act on the recommendation of the Syndicate only.

Examina-
tions.

VIII. All arrangements for the conduct of examinations shall be made by the Syndicate.

Pension or
Provident
Fund.

IX. There shall be instituted for the benefit of the officers, teachers and servants of the University such pension, insurance or provident fund as the Senate may deem fit.

Selection
committees.

X. Appointments of University teachers shall be made on the recommendation of a committee of selection constituted as follows :—

- (i) The Vice-Chancellor ;
- (ii) the Chairman of the Board of Studies in the department of knowledge concerned ;
- (iii) two members elected by the Academic Council ;
- (iv) two members elected by the Senate ;
- (v) the University Professor or another expert in the department of knowledge concerned nominated by the Syndicate.

Register of
graduates.

XI. All graduates of the University and all graduates of the University of Madras, who are residents of or are domiciled in the University area and who are of five years' standing or upwards on the date of the commencement of the Act, shall, on payment of such fees as may be prescribed, be entitled to have their names enrolled in the register of registered graduates and upon such enrolment to enjoy all the privileges of registration.

If any question arises whether a graduate of the University of Madras is a resident of or domiciled in the University area or not, the question shall be decided by the Syndicate and such decision shall be final.

THE MADRAS NURSES AND MIDWIVES ACT, 1926.

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PREAMBLE

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MADRAS ACT No. III OF 1926.¹

[THE MADRAS NURSES AND MIDWIVES ACT, 1926.]

[29th June 1926.]

An Act for the registration of nurses and midwives in the Presidency of Madras.

- Preamble.** WHEREAS it is expedient to provide for the registration of nurses and midwives in the Presidency of Madras, AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—
- Short title.** 1. (1) This Act may be called the Madras Nurses and Midwives Act, 1926.
- Extent.** (2) It shall extend to the whole of the Presidency of Madras.
- Commencement.** (3) It shall come into force on such date as the ² [Provincial Government] may, by notification, appoint.
- Definitions.** 2. In this Act, unless there is anything repugnant in the subject or context—
- (a) ‘ Council ’ means ‘ the Madras Nurses and Midwives Council established under this Act.’
- (b) ‘ Dhai ’ means ‘ an untrained woman practising the profession of midwifery.’
- (c) ‘ Nurse ’ includes a male nurse.
- (d) ‘ Prescribed ’ means ‘ prescribed by rules or by-laws made under this Act.’
- (e) ‘ Register ’ means ‘ a register maintained under section 5 or section 6 ’ and ‘ registered ’ means ‘ registered in accordance with the provisions of either of those sections.’
- Constitution of the Council and the term of office of members.** 3. (1) A Council, called the ‘ Madras Nurses and Midwives Council,’ shall be constituted for the Presidency of Madras, consisting of—
- (a) the Surgeon-General with the Government of Madras ;
- ³ [(b) an officer of the Public Health Department of Government nominated by the ² (Provincial Government)] ;

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 15th July 1924, pages 123–124 ; for Report of the Select Committee, see Proceedings of the Madras Legislative Council, Volume XXIX, pages 920–932 ; for Proceedings in Council, see *ibid*, Volume XIX, pages 494–497, Volume XXII, page 257, Volume XXVII, pages 512–528, and Volume XXIX, pages 890–902.

² These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This clause was inserted by section (2) (i) (a) of the Madras Nurses and Midwives (Amendment) Act, 1934 (Madras Act VII of 1934).

Madras
Act IV
of 1914.

- ¹ [(c)] the Superintendent of the General Hospital, Madras ;
- ¹ [(d)] the Superintendent of the Government Hospital for Women and Children, Madras ;
- ¹ [(e)] one Registered Medical Practitioner nominated by the ²[Provincial Government] ;
- ¹ [(f)] ³ [one Registered Medical Practitioner], nominated by the Medical Council established under sub-section (1) of section 5 of the Madras Medical Registration Act, 1914 ;
- ¹ [(g)] two matrons of hospitals ,elected, in the manner prescribed, by the registered nurses and midwives and approved by the Surgeon-General ;
- ¹ [(h)] one registered nurse elected by the registered nurses and one registered midwife elected by the registered midwives in the manner prescribed ;
⁴ [. . .]
- ⁵ [(i)] one member, being a person registered under this Act, elected in the manner prescribed by such of the members of the Trained Nurses' Association of India as are so registered ;
- (j) one member, being a person registered under this Act, elected in the manner prescribed by such of the members of the Nurses' Association of Madras as are so registered ;
- (k) one member, being a person registered under this Act, elected in the manner prescribed by such of the members of the Nurses' Auxiliary of the Christian Medical Association of India (South India Branch) as are so registered ; and]
- ¹ [(l)] two non-officials, not of the classes referred to above, one of whom shall be a woman, nominated by the ²[Provincial Government] :

¹ Original clauses (b), (c), (d), (e), (f), (g) and (h) were relettered (c), (d), (e), (f), (g), (h) and (l) respectively by section 2 (i) (a) of the Madras Nurses and Midwives (Amendment) Act, 1934 (Madras Act VII of 1934).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "two Registered Medical Practitioners, one of whom shall be a woman" by section 2 (i) (b) of the Madras Nurses and Midwives (Amendment) Act, 1934 (Madras Act VII of 1934).

⁴ The word "and" was omitted by section 2 (i) (c), *ibid.*

⁵ Clauses (i), (j) and (k) were inserted by section 2 (i) (d), *ibid.*

The Surgeon-General shall be the President of the Council.

¹ [. . .]

(2) The members of the Council other than members ex-officio shall hold office for a term of three years² [. . .].

(3) If the place of a member of the Council becomes vacant by the expiration of his term of office or by death, or by resignation or otherwise, the vacancy shall be filled in the manner provided for the filling of the vacancy by sub-section (1).

(4) An outgoing member of the Council shall be eligible for re-election or re-nomination.

(5) The powers of the Council may be exercised notwithstanding any vacancy in the Council.

Effect of failure to attend meetings of the Council.

4. A member who fails to attend three consecutive meetings of the Council shall cease to be a member unless restored by the Council at its next meeting.

Registration of nurses and midwives.

5. The Council shall maintain a register of nurses and a register of midwives and in each such register shall be entered in two separate parts—

- (1) the names of all nurses and midwives who have undergone the course of training and passed the examinations and fulfil the conditions prescribed,
- (2) the names of all nurses and midwives practising in the Presidency of Madras at the commencement of this Act and not qualified to be registered under clause (1) who may be admitted to registration under such conditions and restrictions as may be prescribed :

Provided that no nurse or midwife may be registered under clause (2) after the expiration of three years from the commencement of this Act.

¹ The following proviso to section 3 (1) was omitted by section 2 (i) (e) of the Madras Nurses and Midwives (Amendment) Act, 1934 (Madras Act VII of 1934) :—

“ Provided that for a period of one year from the commencement of this Act, the two matrons referred to in clause (f) shall be nominated by the Surgeon-General, and the nurse and the midwife referred to in clause (g) shall be nominated by the Local Government.”

² The following words and figure were omitted by section 2 (ii), *ibid* :—
“ except members nominated under the proviso to sub-section (1) who shall hold office till the expiry of one year from the commencement of this Act.”

6. The Council shall maintain a register of dhais, ^{Registration} admission to which shall be regulated by such conditions and ^{of dhais.} restrictions as may be prescribed.

7. Subject to such conditions and in such manner as may ^{Removal} be prescribed, the Council may refuse to enter the name of ^{and} any nurse, midwife or dhai in the register or remove the name ^{restoration} of any nurse, midwife or dhai from the register or restore ^{of names.} thereto the name of any nurse, midwife or dhai so removed.

8. (1) Any nurse, midwife or dhai aggrieved by an order ^{Appeal from} of the Council under section 7 may, within three months from ^{Council to} the date on which notice of such order is given, appeal against ^{Tribunal.} the order of the Council.

(2) Such appeal shall be heard by a Tribunal of three persons selected in rotation—

(a) One from a panel of not less than six persons of not less than twelve years' experience as a Magistrate or Civil Judge nominated by the ¹ [Provincial Government];

(b) One from a panel of not less than six registered medical practitioners selected in the prescribed manner by the Medical Council established under sub-section (1) of section 5 of the Madras Medical Registration Act, 1914; and

(c) One from a panel of not less than six registered nurses holding both general and maternity certificates and selected in the prescribed manner by the registered nurses and midwives.

(3) The order of the Tribunal shall be final.

9. Any person aggrieved by the refusal of the Council to ^{Appeal to} approve any institution or person under any rules relating ^{the Provin-} to training made under this Act, may appeal against the ^{cial} refusal to the ^{Government} ^{against} ^{refusal by} ^{the Council} ^{to approve} ^{training} ^{institution} ^{or person.} ^{Disabilities} ^{of unregis-} ^{tered} ^{persons.} ¹ [Provincial Government] and the ¹ [Provincial Government] may give such directions as they think proper and the Council shall comply with the directions so given.

10. (1) Except with the special sanction of the ¹ [Provincial Government], no person shall, after the expiry of three years from the commencement of this Act, be competent to hold any appointment as nurse or midwife in any hospital, dispensary, or infirmary not supported entirely by voluntary contributions unless such person is registered as nurse or midwife under this Act.

(2) After the expiry of one year from the commencement of this Act, no subsidy shall be paid by the ¹ [Provincial Government] or by a local authority to any medical practitioner who employs a dhai other than a registered dhai.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Rules by
the Provin-
cial
Govern-
ment.

11. (1) The ¹[Provincial Government] may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

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

- (a) regulating the conduct of the elections of members of the Council ;
- (b) regulating the conditions of admission to the register ;
- (c) regulating the conduct of any examinations which may be prescribed as a condition of admission to the register, and any matters ancillary to or connected with such examinations ;
- (d) prescribing the causes for which, the conditions under which and the manner in which, the nurses, midwives and dhais may be removed from the register and the procedure for restoration to the register of nurses, midwives and dhais who have been removed therefrom ;
- (e) regulating the selection of the panels and the constitution of the Tribunal specified in subsection (2) of section 8 and the procedure to be followed by the Tribunal ;
- (f) prescribing the fees to be paid in respect of an appeal under this Act ;
- (g) determining the manner in which all fees levied under this Act and all moneys received by the Council shall be applied for the purposes of this Act.

By-laws by
the Council

12. (1) The Council may make by-laws not inconsistent with this Act or any other law—

- (a) for regulating the compilation, maintenance and publication of the register ;
- (b) for regulating and supervising the practice of their profession by registered nurses, midwives and dhais ;
- (c) for regulating the publication of the names of registered nurses, midwives and dhais and their residences ;
- (d) for prescribing the rates of fees to be charged for examinations prescribed for admission to the register and for registration ;
- (e) for regulating the summoning of meetings of the Council and its proceedings ; and
- (f) for regulating the expenditure of the Council and providing for the audit thereof.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(2) No by-law made by the Council shall come into force until it has been confirmed by the ¹ [Provincial Government] with or without modification or amendment.

(3) Every such by-law shall, when so confirmed, be published.

13. Any person who—

(a) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person,

(b) procures or attempts to procure registration under the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate or representation whether in writing or otherwise, or

(c) wilfully makes or causes to be made any false representation in any matter relating to the register or the certificates issued under the provisions of this Act ;

Penalty for dishonest use of certificate for procuring registration by false means and for falsification of register or certificate.

shall be punishable with fine not exceeding two hundred and fifty rupees.

14. (1) Any person, who, not being a registered nurse, takes or uses the name or title of registered nurse or uses any name, title, description, uniform, badge or signboard, with the intention that it may be believed or with the knowledge that it is likely to be believed that such person is a registered nurse, shall be punishable with fine not exceeding one hundred

Penalty for posing as registered nurse, midwife or dhai by a person who is not such.

(2) Any person, who, not being a registered midwife or dhai takes or uses the name or title of registered midwife or dhai or uses any name, title, description, uniform, badge or signboard, with the intention that it may be believed or with the knowledge that it is likely to be believed that such person is a registered midwife or dhai, shall be punishable with fine not exceeding fifty rupees.

15. No magistrate other than a Presidency Magistrate or a magistrate of the first class shall take cognizance of or try any offence under this Act.

Magistrates empowered to try offences under this Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

MADRAS ACT No. IV OF 1926.¹

[THE MADRAS VILLAGE OFFICERS RESTORATION ACT, 1926.]

[6th July 1926.]

An Act to enable the re-appointment to revived offices of the former holders.

- Preamble.** WHEREAS since the commencement of June 1920, with a view to reduce public expenditure villages have been grouped or amalgamated, or the number of village offices has been reduced under the provisions of the Madras Proprietary Estates' Village Service Act, 1894, or the Madras Hereditary Village Offices Act, 1895 ; Madras Act II of 1894.
Madras Act III of 1895.
- AND WHEREAS it is now deemed desirable and expedient, where the villages are redivided or regrouped and the abolished offices are revived or where the number of village offices which has been reduced is restored, to provide by law for the restoration of the officers who held office before the grouping or amalgamation or reduction as aforesaid ;
- AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—
- Short title.** 1. This Act may be called the Madras Village Officers Restoration Act, 1926.
- Extent.** It shall extend to those parts of the Presidency of Madras to which the Madras Proprietary Estates' Village Service Act, 1894 (hereinafter referred to as the First Act), or the Madras Hereditary Village Offices Act, 1895 (hereinafter referred to as the Second Act), applies Madras Act II of 1894.
Madras Act, III of 1895.
- Village office to which the Act applies.** 2. This Act shall apply to the village offices referred to in section 2 of the First Act or forming classes (1) and (3) in section 3 of the Second Act.
- Re-appointment in certain cases of village officers who held office at the date of grouping or amalgamation of villages or reduction in number of offices.** 3. Where new villages formed by the grouping or amalgamation of villages are redivided or regrouped into the old component villages and new offices are created, or where the number of village offices which has been reduced is restored,
if such formation or reduction was after the 1st day of June 1920 and such redivision or regrouping or restoration is made on or before the 31st day of December 1926 or such later date as may be fixed by the ² [Provincial Government] :—
The Collector shall, notwithstanding anything contained in the First Act or the Second Act,
(a) re-appoint the village officers who held such office at the date of such grouping or amalgamation

¹ For Statement of Objects and Reasons see *Fort St. George Gazette*, dated 5th May 1925, Part IV, pages 112–113.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

or of such reduction unless they have become disqualified on the grounds defined by clause (c) or (e) of sub-section (1) of section 10 of the First Act or the Second Act or clause (c) of sub-section (1) of section 11 of the Second Act ; or

- (b) re-register any person who stood registered at such date as the heir of the last holder of the office if he continues a minor or if having attained majority is subject to the disqualification specified in clause (d) but is not disqualified under clause (c) or (e) of sub-section (1) of section 10 of the First Act or the Second Act as the case may be and has not attained the age of 25 years and appoint some other person qualified to discharge the duties of the office until the person registered becomes qualified to discharge the duties of the office and is appointed thereto or until he attains the age of 25 years without becoming qualified in which case the vacancy shall be filled up in accordance with the provisions of sub-sections (2) and (3) of section 10 of the First Act or the Second Act or sub-sections (2) and (3) of section 11 of the Second Act as the case may be ; or
- (c) appoint the person who stood registered at the date aforesaid as the heir of the previous holder if he has attained majority and is eligible for appointment under the provisions of the Act applicable.

Re-registry of minors and disqualified persons and appointment of deputies.

Appointment of registered minor who has attained majority.

4. Where by reason of death or disqualification under section 3, no person is available for appointment under section 3, or where by failure of the person entitled to join office within six months of a notice sent by registered post to his last known address, the office remains vacant, the vacancy shall be filled up in accordance with the provisions of the First or the Second Act as though the vacancy had occurred by the death on the date of the passing of this Act of the person who held the office on the date of the amalgamation or grouping or reduction, or, if there was no person who held the office on that date, as upon the date of the death of the person who last held it before that date.

Method of filling up vacancy when no person is available for appointment.

5. A person appointed under section 12 or 13 of the First Act or under sub-section (4) or (5) of section 10 or sub-section (4) of section 11 of the Second Act to perform or discharge the duties of the office shall not be deemed to have held the office.

Certain persons deemed not to have held office.

6. Any person who would otherwise be entitled to appointment or re-appointment under section 3 but is declared by

Appeal against orders declaring a person to be disqualified for appointment.

the Collector to be disqualified therefor may within two months appeal to the District Collector whose decision shall be final :

Provided that if the District Collector is the officer who passed the order of disqualification under section 3 an appeal shall lie within three months to the Board of Revenue whose decision shall be final.

**Jurisdiction
of civil
courts
barred.**

7. No civil court shall take cognizance of a suit instituted to set aside or modify any order passed under this Act.

Saving.

Nothing in this section shall affect the right of suit which a person may have under the provisions of the Second Act in cases falling under section 4.

THE MADRAS BORSTAL SCHOOLS ACT, 1925.

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(Part I.—Preliminary.)

MADRAS ACT No. V OF 1926¹

[THE MADRAS BORSTAL SCHOOLS ACT, 1925.]

[20th July 1926.]

An Act to make provision for the establishment and regulation of Borstal schools for the detention and training of adolescent offenders.

Preamble. WHEREAS it is expedient to make provision for the establishment and regulation of Borstal schools in the Presidency of Madras for the detention and training of adolescent offenders therein ; and WHEREAS the previous sanction of the Governor-General under section 80-A of the Government of India Act has been obtained to the passing of this Act ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. 1. (1) This Act may be called the “Madras Borstal Schools Act, 1925.”

(2) The² [Provincial Government] may, by notification, from time to time, apply the whole or any of the provisions of this Act to adolescent offenders or any class thereof in any local area in the Presidency of Madras, from such date as may be specified in the notification and may cancel or modify such notification.

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

(1) “Adolescent offender” means any person who has been convicted of any offence punishable with imprisonment or who having been ordered to give security under section 118 of the Code of Criminal Procedure has failed to do so and who at the time of such conviction or failure to give security is not less than 16 nor more than 21 years of age ;

(2) “Borstal school” is a corrective institution wherein adolescent offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated 17th March 1925, pages 98–99 ; for Report of the Select Committee, see Appendix IV, pages 355–365 of Volume XXVI of the Madras Legislative Council proceedings ; for proceedings in Council, see proceedings, dated 19th and 20th August 1925, pages 249, 254, 356–362 of Volume XXIV, *ibid.* ; dated 16th and 17th December 1925, pages 312–346, 397–435 of Volume XXVI, *ibid.*

² These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part I.—Preliminary.)

(3) "Inspector-General" shall mean the Inspector-General of Prisons and shall include any officer appointed by the ¹ [Provincial Government] to perform all or any of the duties imposed by this Act on the Inspector-General.

3. (1) For the purposes of this Act, the ¹ [Provincial Government] may establish one or more Borstal schools. Establishment of Borstal schools.

(2) For every Borstal school a Visiting Committee shall be appointed by the ¹ [Provincial Government].

4. (1) The ¹ [Provincial Government] may ² [after previous publication] make rules for the purpose of carrying into effect the provisions of this Act. Rules.

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

³ [(a)] the appointment, powers and duties of officials in such schools ;

³ [(b)] the ⁴ [. . .], treatment, maintenance, education, industrial training and control of the inmates ;

⁶ [(c)] the grant of permission to the inmates to absent themselves for short periods ;

(d) visits to and communications with the inmates and]

(e) the temporary detention of adolescent offenders until arrangements can be made for sending them to Borstal schools.

(3) All rules made under this Act ⁶ [. . .] shall be published in the ⁷ [Official Gazette] and on such publication shall have effect as if enacted in this Act.

⁸ [* * * * *]

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, 1894, and the Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were inserted by section 2 (i) of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).

³ Original clauses (a) and (c) of sub-section (2) were omitted and the original clauses (b) and (d) were relettered as clauses (a) and (b) respectively by section 2 (ii) (a), *ibid.*

⁴ The word "classification" was omitted by section 2 (ii) (b), *ibid.*

⁵ Clauses (c) and (d) were inserted by section 2 (iii), *ibid.*

⁶ In sub-section (3) the words "except those referred to in the sub-section following" were omitted by section 2 (iv), *ibid.*

⁷ These words were substituted for the words "local official gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸ Sub-section (4) was omitted by section 2 (v) of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).

(Part I.—Preliminary. Part II.—Committal to Borstal Schools.)

Courts
empowered
under this
Act.

6. The powers conferred on Courts by this Act shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, (d) a Subdivisional Magistrate, (e) a salaried Presidency Magistrate ¹ [or any other Presidency Magistrate empowered by the Provincial Government to sit singly] and (f) any Magistrate of the first class or any bench of Magistrates constituted under section 15 of the Code of Criminal Procedure, 1898, invested with the powers of a Magistrate of the first class specially empowered by the ² [Provincial Government] in that behalf; and may be exercised by such Courts whether the case comes before them originally, on appeal, or in revision.

Procedure
when
Magistrate
is not
empowered
to pass
sentence
under this
Act.

7. (1) When any Magistrate not empowered to pass sentence under this Act is of opinion that an adolescent offender is a proper person to be detained in a Borstal school, he may, without passing sentence, record such opinion and submit his proceedings ³ [and forward the adolescent offender—

(a) in case the Magistrate is a Presidency Magistrate, to the Chief Presidency Magistrate or if he has designated a salaried Presidency Magistrate in this behalf by general or special order, to such salaried Presidency Magistrate; and

(b) in other cases, to the District Magistrate or Subdivisional Magistrate to whom he is subordinate].

(2) ⁴ [The Magistrate to whom the proceedings are so submitted] may make such further inquiry (if any) as he may think fit and may pass such sentence or order dealing with the case as he might have passed if such adolescent offender had originally been tried by him.

PART II.

COMMITTAL TO BORSTAL SCHOOLS.

Power of
Court to
pass sen-
tence of
detention in
Borstal
school.

8. Where it appears to a Court having jurisdiction under this Act that an adolescent offender should, by reason of his criminal habits or tendencies, or association with persons of bad character, be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime, it shall be

¹ These words were inserted by section 2 of the Madras Borstal Schools (Amendment) Act, 1938 (Madras Act XI of 1938).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This was substituted for the words "and forward the adolescent offender to the District Magistrate or Subdivisional Magistrate to whom he is subordinate" by section 3 (1) of the Madras Borstal Schools (Amendment) Act, 1938 (Madras Act XI of 1938).

⁴ These words were substituted for the words "The District Magistrate or Subdivisional Magistrate to whom the proceedings are so submitted" by section 3 (ii), *ibid.*

(Part II.—Committal to Borstal Schools.)

lawful for the Court, in lieu of passing a sentence of imprisonment, to pass a sentence of detention in a Borstal school for a term which shall not be less than two years and shall not exceed five years ¹ [but in no case extending beyond the date on which the adolescent offender will, in the opinion of the Court, attain the age of twenty-three years] :

Provided that, before passing such sentence, the Court shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal school and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to profit by such instruction and discipline as aforesaid.

9. Any person detained in a Borstal school for failure to furnish security when ordered to do so under section 118 of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the Code. Limitation on powers conferred by section 8.

10. The Inspector-General may, subject to rules made by the ² [Provincial Government], if satisfied that any adolescent offender undergoing imprisonment in consequence of a sentence passed either before or after the passing of this Act might with advantage be detained in a Borstal school, direct that such person shall be transferred from prison to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a Borstal school. Power of Inspector-General to transfer prisoners to Borstal school.

³ [10-A. The Provincial Government may, if satisfied that any offender who has been sentenced to transportation either before or after the passing of the Madras Borstal Schools (Amendment) Act, 1939, and who at the time of conviction was not less than 16 nor more than 21 years of age, might with advantage be detained in a Borstal school, direct that such offender shall be transferred to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall apply to such offender as if he had been originally sentenced to detention in a Borstal school. Power of Provincial Government to transfer offenders sentenced to transportation to Borstal schools.

An order may be made under this section notwithstanding that the sentence of transportation has been subsequently commuted into a sentence of imprisonment.]

¹ These words were added by section 3 of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This section was inserted by section 2 of the Madras Borstal Schools (Amendment) Act, 1939 (Madras Act XIII of 1939).

(Part II.—Committal to Borstal Schools.)

Preliminary inquiry and finding as to age of adolescent offender.

11. (1) Before passing a sentence under section 8 the Court shall inquire into the age of the offender and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

(2) A similar inquiry shall be made and finding recorded by every magistrate not empowered to pass sentence under section 8 before submitting his proceedings and forwarding an adolescent offender to the District Magistrate or Subdivisional Magistrate as required by sub-section (1) of section 7.

Government to determine the Borstal school to which adolescent offender shall be sent.

12. Every adolescent offender directed by a Court to be sent to a Borstal school shall be sent to such Borstal school as the ¹ [Provincial Government] may, by general or special order, appoint for the reception of adolescent offenders so dealt with by such Court :

Provided that, if accommodation in a Borstal school is not immediately available for such adolescent offender, he may be detained in a special ward or such other suitable part of a prison as the ¹ [Provincial Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

Removal from one school to another.

13. The Inspector-General may at any time order an inmate to be removed from one Borstal school to another, provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Transfer of incorrigibles, etc., to prisons.

14. Where a person detained in a Borstal school is reported to the ¹ [Provincial Government] by the Visiting Committee of such school to be incorrigible or to be exercising a bad influence on the other inmates of the school ² [or in the case of a person directed to be sent to a Borstal school before the commencement of the Madras Borstal Schools (Amendment) Act, 1936, to be over twenty-three years of age], the ¹ [Provincial Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the ¹ [Provincial Government] may determine, but in no case exceeding

- (a) such unexpired residue, or
- (b) the maximum period of imprisonment fixed for the offence or the failure to give security as the case may be, or
- (c) the maximum period of imprisonment which the Court that tried him had authority to award under the Code of Criminal Procedure, 1898,

or whichever is shortest.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words, brackets and figures were inserted by section 4 of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XLIX of 1936).

(Part III.—Release on Licence.)

PART III.

RELEASE ON LICENCE.

15. (1) Subject to any general or special directions of the ^{Power to} ^{release on} ^{licence.} ¹ [Provincial Government] the Inspector-General, on the recommendation of the Visiting Committee, may, at any time after the expiration of six months from the commencement of the term of detention, if satisfied that there is a reasonable probability that the inmate will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from the Borstal school on condition that he be placed under the supervision or authority of any Government officer, or secular institution, or person, or religious society professing the same religion as the inmate, named in the licence who may be willing to take charge of him.

(2) A licence under this section shall be in force¹ until the term for which the offender was sentenced to detention has expired, unless sooner revoked or forfeited.

16. Every licence granted under section 15 shall be in ^{Form of} ^{licence.} such form and shall contain such conditions as the ¹ [Provincial Government] may by rules direct.

17. Subject to any general or special directions of the ^{Revocation} ^{of licence.} ¹ [Provincial Government] a licence granted under section 15 may be revoked at any time by the Inspector-General and where a licence has been revoked the person to whom the licence related shall return to the Borstal school.

18. If any inmate escapes from a Borstal school or if any inmate absent on licence from a Borstal school removes himself from the supervision of the society or person in whose charge he is placed or fails to return from such supervision to the Borstal school, a police officer not below the rank of a Sub-Inspector of Police may, without orders from a Magistrate and without warrant, arrest him and take him back to the Borstal school and his licence shall be forfeited with effect from the date of his escape or failure to return as the case may be. ^{Escape and} ^{forfeiture of} ^{licence.}

19. The time during which a person is absent from a ^{Absence} ^{under} ^{licence to be} ^{counted} ^{towards} ^{period of} ^{detention.} Borstal school under a licence shall be treated as part of the term of his detention in the school; provided that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the term during which he is to be detained in the school.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part III-A.—Control and Management of Borstal Schools.)

¹ [PART III-A.]

CONTROL AND MANAGEMENT OF BORSTAL SCHOOLS.

Management
of Borstal
schools.

19-A. Subject to the orders of the Inspector-General and subject also to the rules made by the ² [Provincial Government] the control and management of every Borstal school shall vest in a Superintendent appointed by the ² [Provincial Government].

Constitu-
tion,
powers and
duties of
Visiting
Committees.

19-B. (1) (a) Every Visiting Committee appointed under sub-section (2) of section 3 shall consist of the Sessions Judge, the District Magistrate, the District Educational Officer of the district in which the school is situated and four non-official members appointed by the ² [Provincial Government].

(b) The non-official members shall hold office for a period of two years but shall be eligible for reappointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members—

(a) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to ;

(b) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the ² [Provincial Government] or to the Inspector-General from time to time any matter, which, in their opinion, should receive attention and annually on the progress of the school ;

(c) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive ;

(d) to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent ; and

(e) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the ² [Provincial Government] every member of the Committee shall be entitled to call for information from the Superintendent, to examine the records of the school and to take such other action as he deems necessary for the due discharge of his duties.

¹ Part III-A was inserted by section 5 of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XLIX of 1936).

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part III-A.—Control and Management of Borstal Schools.)

19-C. (1) The inmates of a Borstal school shall be divided by the Superintendent according to their industry and good conduct into four grades, namely :—

Classification of inmates.

- (1) the penal grade,
- (2) the ordinary grade,
- (3) the star grade,
- (4) the special star grade.

(2) The privileges of each grade shall be higher than those of the grade preceding, if any.

(3) Every inmate shall, on reception in a Borstal school, be placed in the ordinary grade.

(4) The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act and the general instructions of the Visiting Committee.

(5) Promotions and reductions shall be regulated by close personal observation of the inmates and shall depend specially on their general behaviour, amenability to discipline and attention to instruction both literary and industrial.

IX of 1894. **19-D.** (1) The punishments which may be inflicted on an inmate of a Borstal school for offences specified in the Prisons Act, 1894, and the rules made thereunder, shall be in the following forms and in no other :—

Punishments for offences.

- (i) Formal warning.
- (ii) Extra drill.
- (iii) Deprivation of any of the privileges of the grade.
- (iv) Reduction in grade.
- (v) Cuts on the hand by a rattan not exceeding six on each hand.
- (vi) Whipping, provided that the number of stripes shall not exceed eighteen.

(2) No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

19-E. No inmate of a Borstal school shall be made to work for more than eight hours a day :

Limitation of hours of work.

Provided that extra drill awarded as a punishment under sub-section (1) of section 19-D shall not be deemed, for the purposes of this section, to be work.

19-F. (1) For every inmate released under sub-section (1) of section 15, there shall be a probation officer appointed by the District Magistrate in consultation with the Borstal Association, if any, in the district wherein the school is situated or in the district wherein the inmate permanently resided at the time he was sentenced under section 8.

Probation officers.

(Part III-A.—Control and Management of Borstal Schools.
Part IV.—Appeal and Revision. Part V.—Miscellaneous.)

(2) Two months prior to the release of any inmate, the Superintendent shall request the District Magistrate to appoint a suitable probation officer as provided in sub-section (1).

(3) The District Magistrate shall communicate all appointments of probation officers made under sub-section (1) to the Superintendent in sufficient time for the inmates concerned being informed of their respective probation officers before their release from the school.

Explanation.—For the purpose of this section the Presidency town shall be deemed to be a district and “District Magistrate” shall mean the District Magistrate of the district, or the Chief Presidency Magistrate of the Presidency town, in which the inmate permanently resided at the time he was sentenced under section 8.]

PART IV.

APPEAL AND REVISION.

Appeal and
revision.

20. For purposes of appeal and revision under the Code of Criminal Procedure, 1898, a sentence of detention under section 8 of this Act shall be deemed to be a sentence of imprisonment for the same period.

Any person affected by an order of the Inspector-General under this Act may appeal to the ¹[Provincial Government] whose orders shall be final.

PART V.

MISCELLANEOUS.

Minimum
age-limit of
adolescents
in areas to
which the
Madras
Children
Act, 1920,
has not been
extended.

21. In areas to which the Madras Children Act, 1920, has not been extended the figure 16 appearing in section 2 (1) of the Act shall be read as 15.

Power of
Provincial
Government
to discharge
inmates.

²[21-A. The ¹(Provincial Government) may at any time order the discharge of an inmate of any Borstal school either absolutely or subject to such conditions as they may think fit.]

Removal of
disqualifica-
tion attach-
ing to con-
victions for
offences.

22. The conviction of an adolescent shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Section 21-A was inserted by section 6 of the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).

MADRAS ACT No. VII OF 1926.¹

[THE KIRLAMPUDI B AND C ESTATES, DONTAMURU AND
RAYAVARAM IMPARTIBLE ESTATES ACT, 1926.]

[23rd November 1926.]

An Act to declare the Kirlampudi B and C Estates,
Dontamuru and Rayavaram Estates to be im-
partible within the meaning of the Madras
Impartible Estates Act, 1904.

WHEREAS it is expedient to declare that the Kirlampudi B Preamble.
and C Estates, Dontamuru and Rayavaram Estates are impar-
tible and that their proprietors cannot exercise unrestricted
powers of alienation in respect thereof; and whereas the pre-
vious sanction of the Governor-General has been obtained; It
is hereby enacted as follows :—

1. This Act may be called “The Kirlampudi B and C Short title.
Estates, Dontamuru and Rayavaram Impartible Estates Act,
1926.”

2. Notwithstanding any decision of Courts, rule of law or Kirlampudi
enactment to the contrary, the Kirlampudi B Estate, except the B and C
village of Kirlampudi, Kirlampudi C Estate, Dontamuru and Estates,
Rayavaram Estates in the East Godavari district, are hereby Dontamuru
declared to be impartible estates within the meaning of the and Raya-
Madras Impartible Estates Act, 1904, and shall in the hands varam
of the present owner as well as of his heirs and successors be Estates to be
subject to the provisions of that Act. impartible
within the
meaning of
the Madras
Impartible
Estates Act,
1904.

3. This Act shall not affect any alienation made or debt Savings.
incurred before the commencement of this Act.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 29th June 1926—Part IV, pages 96–97.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS
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SCHEDULES.

*(Chapter I.—Preliminary.)*MADRAS ACT No. II OF 1927.¹

[THE MADRAS HINDU RELIGIOUS ENDOWMENTS ACT, 1926.]

[8th February 1927.]

An Act to provide for the better administration and governance of certain Hindu religious endowments and to remove certain doubts as to the legality of the action taken and things done under the Madras Hindu Religious Endowments Act, 1923.

Preamble.

WHEREAS it is expedient to provide for the better administration and governance of certain Hindu religious endowments described hereunder ;

AND WHEREAS diverse doubts have been raised as to the validity of the action taken and things done under the Madras Hindu Religious Endowments Act, 1923 ;

Madras Act
of 1925.

AND WHEREAS certain legal proceedings have been commenced in the High Court of Judicature, Madras, and certain courts subordinate thereto, questioning the said action and things ;

AND WHEREAS it is expedient to remove those doubts and to validate the said action and things ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

Short title.

1. This Act may be called the Madras Hindu Religious Endowments Act, 1926.

Extent.

2. This Act extends to the whole of the Presidency of Madras except the Presidency town and applies, save as hereinafter provided, to all Hindu public religious endowments.

Explanation.—For the purposes of this Act, Hindu public religious endowments do not include Jain religious endowments.

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 10th August 1926, page 182 ; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume XXXI, pages 42-94 and 158-217, and Volume XXXII, pages 22-79, 157-211, 230-285, 304-352, 357-418, 424-485, 492-554, 562-627, 635-696, 701-763, 769-828, 833-889 and 894-905.

(Chapter I.—Preliminary.)

3. (a) The ¹[Provincial Government] may, after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary, alter or cancel such exemption. Power to exempt endowments

(b) The ¹[Provincial Government] may, by notification, extend to Jain religious endowments the provisions of this Act and of any rules framed thereunder, and may declare such extension to be subject to such restrictions and modifications as they think fit. Power to extend Act to Jain endowments.

Provided that before issuing such notification the ¹[Provincial Government] shall publish in the ²[Official Gazette] a notice of their intention to do so, fix a reasonable period for the persons interested in the endowments concerned to show cause against the issue of such notification and consider their objections, if any.

* [4. * * * *]

^ [5. * * * *]

6. The Madras Hindu Religious Endowments Act, 1923 (hereinafter referred to as 'the said Act') is hereby repealed. Repeal of Madras Act I of 1925.

7. (i) All action taken and all things done including the constitution of the Board of Commissioners for Hindu Religious Endowments, the notifications issued and orders made under and in pursuance of the said Act shall be deemed to have been validly taken, done, issued or made. Validation of action taken under Madras Act I of 1925.

(ii) All proceedings taken under the said Act may be continued under this Act in so far as they are not inconsistent with the provisions of this Act.

(iii) Any remedy by way of application, suit or appeal which is provided by this Act shall be available in respect of proceedings under the said Act pending at the time of the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

8. The Religious Endowments Act, 1863, and the Madras Endowments and Escheats Regulation, 1817, so far as they apply to Hindu religious endowments to which this Act applies, are hereby repealed. Repeal of enactments.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ Section 4 was omitted by section 3 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

⁴ Section 5 was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter I.—Preliminary.)

- Definitions.** 9. In this Act, unless there is anything repugnant in the subject or context—
- Board.** (1) 'Board' means the Board as constituted under section 10.
- Committee.** (2) 'Committee' means a committee as constituted under section 20.
- Court.** (3) 'Court' means the court of the District Judge within whose local limits a committee exercises jurisdiction or a math or temple is situated.
- Electoral area.** (4) 'Electoral area' means an area containing the electors of a committee.
- Excepted temple.** ¹ [(5) 'Excepted temple' means and includes a temple, the right of succession to the office of trustee or the offices of all the trustees (where there are more trustees than one) whereof has been hereditary, or the succession to the trusteeship whereof has been specially provided for by the founder.]
- Hereditary trustee.** ² [*Explanation.*—No action taken by a Board in pursuance of the power conferred on it by clauses (a) and (b) of sub-section (1) of section 63 shall be deemed to have the effect of converting an excepted temple into a non-excepted temple.]
- (6) 'Hereditary trustee' means the trustee of a religious endowment, succession to whose office devolves by hereditary right or by nomination by the trustee for the time being, or is otherwise regulated by usage or is specially provided for by the founder, so long as such scheme of succession is in force.
- Math.** (7) 'Math' means an institution for the promotion of the Hindu religion presided over by a person whose duty is to engage himself in spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples and succession to whose office devolves in accordance with the directions of the founder of the institution or is regulated by usage; and includes places of religious worship other than a temple or places of religious instruction which are appurtenant to such institution.
- Non-hereditary trustee. Notified temple.** (8) 'Non-hereditary trustee' means a trustee who is not a hereditary trustee.
- ³ [(8 A) 'Notified temple' means a temple notified by the ⁴ (Provincial Government) under section 65-A.]

¹ This clause was substituted for the original clause (5) by section 4 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

² This Explanation was added by section 2 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

³ Clause (8-A) was inserted by *ibid.*

⁴ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter I.—Preliminary. Chapter II.—Boards of Commissioners.)

- (9) 'Person having interest' means— Person having interest.
- (a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs, and
- (b) in the case of a temple a person who is entitled to attend at the performance of worship or service in the temple or who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereat.
- (10) 'Prescribed' means prescribed by the ¹[Provincial Government] by rules made under this Act. Prescribed.
- (11) 'Religious endowment' or 'Endowment' means all property belonging to, or given or endowed for the support of, maths or temples or for the performance of any service or charity connected therewith and includes the premises of maths or temples but does not include gifts of property made as personal gifts or offerings to the head of a math or to the archaka or other employee of a temple. Religious endowment.
- (12) 'Temple' means a place, by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu community, or any section thereof, as a place of religious worship. Temple.
- (13) 'Trustee' means a person, by whatever designation known, in whom the administration of a religious endowment is vested and includes any person who is liable as if he were a trustee. Trustee.

CHAPTER II.

Boards of Commissioners.

10. (1) The ¹[Provincial Government] may, by notification— Constitution of Board.
- (a) direct the constitution of a Board for the whole Presidency or for any specified part thereof,
- (b) vary the strength or territorial jurisdiction of any such Board, or
- (c) abolish any such Board :

Provided that not more than one Board shall have jurisdiction over the same math or temple or the endowments connected therewith :

Provided further that, when the ¹[Provincial Government] propose to direct the constitution of more Boards than one under this sub-section or to vary or abolish any Board, a draft of the notification proposed to be issued shall be published in the prescribed manner and laid ²[before

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "on the table of the Legislative Council" by Schedule II, *ibid.*

(Chapter II.—Boards of Commissioners.)

both the Chambers of the Provincial Legislature] and the notification shall not be issued ¹[unless both the Chambers] by resolution ² [approve] such draft.

(2) The ³ [Provincial Government] may pass such orders as they may deem fit as to the transfer or other disposal of the assets and liabilities of a Board which is varied or abolished.

Strength of the Board and its incorporation.

11. (1) A Board shall consist of a President and such number of other commissioners not being less than two nor more than four as the ³ [Provincial Government] may fix.

(2) Every Board shall by such name as the ³ [Provincial Government] may determine be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

Qualifications of commissioners and their appointment.

12. (1) The Commissioners of a Board shall be persons professing the Hindu religion.

(2) The President shall be—

- (a) a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than five years' standing, or
- (b) a person having held judicial office not inferior to that of a subordinate judge or of a judge of a small cause court, or
- (c) a person having been a pleader for a period of not less than ten years.

(3) Subject to the provisions of sub-sections (1) and (2), the President and other commissioners of a Board shall be appointed by the ³ [Provincial Government] and shall, during their term of office, be deemed to be public servants within the meaning¹ of section 21 of the Indian Penal Code.

XLV of 1860.

Tenure of office of commissioners.

13. (1) Every commissioner of a Board other than the President shall be entitled to hold office for five years from the date of his appointment.

(2) The President shall be entitled to hold office for five years from the date of his appointment :

Provided that if on the date of his appointment as President he is a commissioner he shall be entitled to hold office as President only up to the expiry of his term as commissioner.

(3) An outgoing President or commissioner shall, if otherwise qualified, be eligible for re-appointment.

¹ These words were substituted for the words " unless the Legislative Council " by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² This word was substituted for the word " approves " by paragraph 5 (2), *ibid.*

³ These words were substituted for the words " Local Government " by paragraph 4 (1), *ibid.*

(Chapter II.—Board of Commissioners.)

14. (1) Every commissioner shall devote his whole time and attention to the duties of his office and shall not, without the sanction of the ¹[Provincial Government], engage in any other profession, trade or business, or stand for election or be appointed as a member of a local body or be a trustee of any religious endowment.

Remuneration of commissioners.

(2) The commissioners shall each receive, out of the funds of the Board, such salary as the ¹[Provincial Government] may fix :

Provided that such salary shall not exceed one thousand and two hundred rupees per mensem for a President or eight hundred rupees per mensem for any other commissioner.

15. (1) The ¹[Provincial Government] may suspend or remove any commissioner from his office—

Power of Government to remove commissioners and their disqualification.

- (a) if he is convicted by a criminal court of any offence which in the opinion of the ¹[Provincial Government] involves moral turpitude ;
- (b) if he becomes of unsound mind, or a deaf-mute or suffers from contagious leprosy ;
- (c) if he applies to be adjudicated or is adjudicated a bankrupt or insolvent ;
- (d) for corruption, misconduct or other sufficient cause.

(2) A commissioner shall cease to hold his office if he ceases to profess the Hindu religion.

16. (1) Every Board shall have an office at such place as the ¹[Provincial Government] may fix for the transaction of business.

Office and meetings of the Board.

(2) At meetings of the Board, the President of the Board and in his absence the senior commissioner in order of appointment shall preside.

(3) No business shall be transacted at any meeting unless at least two commissioners are present.

(4) In case of difference of opinion among the commissioners, the question before the Board shall be decided by a majority of votes ; and where the votes are equally divided the President or senior member presiding shall have a second or casting vote.

17. Subject to such control as may be prescribed

- (a) a Board may from time to time determine the number, designations, grades and scales of salary or other remuneration of its officers and servants, and

Officers and servants of the Board, their appointment and punishment.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II.—Boards of Commissioners.)

(b) the President of the Board shall have the power to appoint and transfer such officers and servants and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct or other sufficient cause.

Powers and duties of the Board in general.

18. Subject to the provisions of this Act and of any scheme settled or deemed to be a scheme settled under this Act,

- (1) the general superintendence of all religious endowments within the territorial jurisdiction of a Board shall vest in such Board, and
- (2) the Board may do all things which are reasonable and necessary to ensure that maths and temples are properly maintained and that all religious endowments are properly administered and duly appropriated to the purposes for which they were founded or exist.

¹[*Explanation.*—The general powers of superintendence of the Board shall include the power to pass such interim orders as it deems necessary in the interests of the proper maintenance of a math or temple or the administration of a religious endowment.]

Power of Board to make by-laws.

19. (1) A Board may make by-laws not inconsistent with this Act or the rules made thereunder or with any other law as to—

- (a) the division of duties among the President and commissioners of the Board ;
- (b) the manner in which their decision shall be ascertained otherwise than at meetings ;
- (c) the procedure and conduct of business at meetings of the Board ;
- (d) the delegation of powers of the Board to individual commissioners or committees of commissioners ;
- (e) the security, if any, to be furnished by officers and servants of the Board ;
- (f) the books and accounts to be kept at the office of the Board ;
- (g) the custody and investment of the funds of the Board, committees and trustees ;
- (h) the form and manner of applications to the Board ;
- (i) the details which shall be included in or excluded from the budgets of committees and religious endowments ; and
- (j) generally the conduct of all proceedings and business under this Act.

¹ This Explanation was added by section 5 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

(Chapter II.—Boards of Commissioners. Chapter III.—
Temple Committees.)

(2) No by-law or cancellation or alteration of a by-law made by the Board shall have effect until the same shall have been published for public criticism and thereafter confirmed by the ¹ [Provincial Government].

(3) All by-laws when they shall have been duly confirmed shall be published in the ² [Official Gazette] and shall thereafter have the force of law.

CHAPTER III.

Temple Committees.

20. (1) The ¹ [Provincial Government] may, by notification, Constitution, variation and abolition of committees.
- (a) direct the constitution of a committee for any local area or any class or classes of institutions in any local area ;
 - (b) vary the strength or the jurisdiction of any committee ; or
 - (c) abolish any committee ;

Provided as follows :—

- (i) Not more than one committee shall have jurisdiction over the same temple or the endowments connected therewith.
- (ii) The ¹ [Provincial Government] shall, before issuing a notification under clause (b) or clause (c), communicate to the Board and the committee concerned the grounds on which they propose to do so, fix a reasonable period for the Board or committee to show cause against the proposal and consider its explanations and objections, if any.

(2) The Board may pass such orders as it may deem fit as to the transfer or other disposal of the assets and liabilities of a committee which is varied or abolished.

21. A committee shall consist of such number of elected members as may be fixed by the ¹ [Provincial Government], such number to be not less than six and not more than twelve. Strength of committee.

22. Notwithstanding anything contained in section 21, where the ¹ [Provincial Government] direct the constitution of a committee for the first time or in place of a committee which has been abolished the members of such new committee shall hold office for such period not exceeding one year as the ¹ [Provincial Government] may fix and during such period may be all appointed by the ¹ [Provincial Government] : Constitution of new committee.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " *Port St. George Gazette* " by *ibid.*

(Chapter III.—Temple Committees.)

¹ [Provided that, if, for any reason, elections to such new committee are not held at the expiry of the period fixed under this section, the ² [Provincial Government] may make fresh appointments thereto for a period not exceeding one year. An outgoing member shall, if otherwise qualified, be eligible for reappointment.]

Electoral areas and circles.

23. (1) For the purpose of election of members, the ² [Provincial Government] shall, for each committee, notify an electoral area.

(2) A committee may, with the approval of the Board, divide its electoral area into circles and determine the number of members which each circle shall return.

Electoral roll.

24. (1) For every electoral area, an electoral roll showing the names of persons qualified to vote shall once in every three years be prepared and published by such authority and in such manner as may be prescribed.

(2) Where an electoral area has been divided into circles, the electoral roll shall be divided into parts and one part shall be allotted to each circle.

(3) Every person whose name appears on the electoral roll published under this section shall, so long as it remains in force, be entitled to vote at an election; and no person whose name does not appear on such roll shall vote at an election.

(4) Notwithstanding anything contained in subsection (1) an electoral roll once published shall remain in force till the publication of a fresh electoral roll.

Qualifications and disqualifications of electors.

25. Every person shall be entitled to have his name included in the electoral roll of an electoral area if he professes the Hindu religion and possesses the qualifications prescribed for an elector of such area in part I of schedule I and if he is not subject to any of the disqualifications described in part II of schedule I.

Disqualifications of candidates and members.

26. (1) A person shall be disqualified for election or appointment as a member of a committee—

(a) if his name does not appear on the roll of the electoral area concerned;

(b) if at the date of nomination, election or appointment he is

(i) of unsound mind, a deaf-mute or suffering from contagious leprosy, or

(ii) an undischarged insolvent, or

(iii) already a member of the committee whose term of office will not expire before his fresh election or appointment can take effect, or

¹ The proviso was added by section 2 of the Madras Hindu Religious Endowments (Amendment) Act, 1927 (Madras Act I of 1928).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Temple Committees.)

(iv) a trustee or an office-holder, or a servant attached to, or in receipt of any emolument or perquisite from a temple over which the committee has jurisdiction.

(2) A person who has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months (such sentence not having been cancelled or reduced to a period of not more than six months or the offence not having been pardoned) shall be disqualified for election or appointment as a member of a committee while undergoing the sentence or during the period for which such sentence may have been suspended or in abeyance and for five years from the date of expiration of the sentence :

Provided that the ¹ [Provincial Government] may direct that such sentence shall not operate as a disqualification.

(3) A member of a committee shall cease to hold his office if he—

(a) is sentenced by a court to such punishment as is described in sub-section (2) :

Provided that the ¹[Provincial Government] may direct that such sentence shall not operate as a disqualification ;

(b) becomes of unsound mind, a deaf-mute or suffers from contagious leprosy ;

(c) applies to be adjudicated or is adjudicated a bankrupt or insolvent ;

(d) becomes trustee or an office-holder or a servant attached to, or in receipt of any emolument or perquisite from a temple over which the committee has jurisdiction ;

(e) ceases to profess the Hindu religion ; or

(f) absents himself from the meetings of the committee for three consecutive months, or if three consecutive meetings are not held within that period from three consecutive meetings.

(4) Where a person ceases to be a member under clause (f) of sub-section (3), the president of the committee shall report the fact to the committee at its next meeting and also intimate the same in writing to such person. If such person applies for restoration within one month of the receipt by him of such intimation from the president, the committee may, at the meeting next after the receipt of such application restore him to his office of member of the committee :

Provided that a member of a committee shall not be so restored more than thrice during his term of office.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Temple Committees.)

Term of
office of
members.

27. Save as otherwise expressly provided, every member of a committee shall be entitled to hold office for a term of five years from the date when his election or appointment is published in the prescribed manner.

President
and vice-
president.

28. (1) Every committee shall elect a president and a vice-president from among its members.

(2) A president or a vice-president shall hold office for three years from the date of his election, unless in the meanwhile he resigns his office as president or vice-president or ceases to be a member of the committee.

(3) When the office of president is vacant, the vice-president shall exercise the functions of a president until a new president assumes office.

Resignation
of president,
vice-presi-
dent and
members of
committee.

29. (1) A member of a committee other than the president and a vice-president may resign his office by giving notice in writing to the president and a president may resign his office by giving notice in writing to the committee.

(2) The resignation shall take effect in the case of a member or vice-president from the date of receipt of the notice by the president, and in the case of a president from the date on which it is placed before the committee.

Filling up of
vacancies.

30. (1) On the occurrence of a vacancy in the office of a member of a committee, a new member shall, subject to the provisions of section 22, be elected in the same manner as his predecessor was elected.

(2) If no member is elected at an election held under sub-section (1), a fresh election shall be held.

(3) If no member is elected at such fresh election, the ¹ [Provincial Government] may appoint a person to fill the vacancy.

(4) If the office of president is vacant and there is no vice-president, any three members of the committee may, after giving reasonable notice of not less than seven clear days to the other members, convene a meeting for the election of the president.

(5) An outgoing member, president or vice-president shall, if otherwise qualified, be eligible for re-election or re-appointment.

(6) The election or appointment of a member, president or vice-president shall be notified in the prescribed manner.

Act of
committee
not to be
invalidated
by informa-
lity.

31. No act of a committee or of any person acting as president, vice-president or member of such committee shall be deemed to be invalid by reason only of a defect in the establishment or constitution of such committee or on the ground that any member of such committee was disqualified

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Temple Committees.)

for, or had ceased to hold, such office, or by reason of such act having been done during the period of any vacancy in the office of president, vice-president or member of such committee.

32. Every committee shall, by such name as the ¹ [Provincial Government] may determine, be a body corporate and shall have perpetual succession and a common seal and shall, by the said name, sue and be sued.

Incorporation of committee.

33. (1) The committee may, from time to time, determine the number, designations, grades and scales of salary or other remuneration of its officers and servants.

Officers and servants of committee, their appointment and punishment.

(2) Subject to such control as the Board may impose, the president of the committee shall have the power to appoint and transfer such officers and servants, and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct or other sufficient cause.

² 34. (1) The resolutions of a committee shall be carried into effect by its president in whom the entire executive power of the committee shall, save as hereinafter provided, be vested.

Powers and duties of the president.

(2) (a) All the resolutions of a committee shall be notified to the Board within one week after they are passed.

(b) The Board may call for any record or proceedings or other document or paper from any committee for the purpose of satisfying itself as to the correctness, regularity or propriety of any order or proceedings recorded or passed by such committee.

(3) (a) The Board shall have the power of staying, for reasons to be recorded by it, the execution of any of the resolutions of the committee and remitting the same to the committee for reconsideration.

(b) If the committee upon such reconsideration confirm the said resolutions, the Board may, whenever it deems such step necessary in the interests of the temple affected or the proper management of the affairs of the committee, modify or cancel the said resolutions.]

35. Subject to the powers possessed by the Board under ³ [sections 18, 34 and 35-A] and to the provisions of any scheme settled or deemed to be a scheme settled under this Act, a committee shall be entitled to exercise general superintendence over the temples for which it is constituted.

Committee to have general superintendence over temples.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This section was substituted for the original section 34 by section 6 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

³ These words and figures were substituted for the word and figures "section 18" by section 7, *ibid.*

(Chapter III.—Temple Committees.)

Board's power to perform the duties of a committee at the expense of the funds of the committee in case such committee makes defaults.

1[35-A. Where the Board is satisfied that any committee has failed to perform the duties entrusted to it under this Act, the Board may, after giving reasonable notice to the committee and considering the representations it may make, undertake and perform all or any of such duties so left unperformed, the expenses, if any, involved therein being met from the funds of the committee concerned.]

Power of committee to make regulations.

36. Subject to such control as may be prescribed, a committee may make regulations not inconsistent with this Act or with any rules or by-laws made thereunder in regard to the following matters :—

- (a) the time and place of its meetings ;
- (b) the manner in which notice thereof shall be given ;
- (c) the quorum for the transaction of business at meetings ;
- (d) the preservation of order and the conduct of proceedings at meetings and the powers which a president may exercise for the purpose of enforcing his decisions ;
- (e) the manner in which the proceedings of meetings shall be recorded and published ;
- (f) the division of duties among the president, vice-president and members of the committee ;
- (g) the delegation of the powers, duties or functions of the committee or its president—
 - (i) to the president or vice-president or a member, or
 - (ii) to a sub-committee of members ;
- (h) the persons by whom receipts may be granted for money paid to the committee ;
- (i) the accounts, returns and reports to be submitted by trustees of religious endowments ;
- (j) the manner in which the decisions of the committee shall be ascertained otherwise than at meetings ;
- (k) all other similar matters.

Committee not to exercise jurisdiction over maths or excepted temples.

37. No committee constituted under the provisions of this chapter shall be entitled to exercise any jurisdiction over maths or excepted temples or the trustees thereof.

¹ Section 35-A was inserted by section 8 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

(Chapter IV.—*Religious Endowments in general.*)

CHAPTER IV.

Religious Endowments in general.

38. (1) For every math and temple a register shall be maintained by the Board showing—

Preparation of register of endowments.

- (a) the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee ;
- (b) particulars of all endowments of the math or temple, and all title-deeds and other documents relating thereto ;
- (c) particulars of the scheme of administration and of the *dittam* or scale of expenditure ;
- (d) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case ;
- (e) the jewels, gold, silver, precious stones, all vessels and utensils and other movables belonging to the institution, with their estimated value ; and
- (f) such other particulars as the Board may fix.

(2) The register shall be prepared, verified and signed by the trustee of the math or temple or by his authorized agent and submitted by him to the Board within such period after the commencement of this Act as the Board may fix :

Provided that a register relating to a temple over which a committee has jurisdiction shall be submitted through the committee which may, after making such inquiry as it may consider necessary, recommend such alterations, omissions or additions in the register as it may think fit.

(3) The Board may, after receiving the register from a trustee, make such inquiry as it may consider necessary and direct that the register be approved with such alterations, omissions or additions as it thinks fit to order.

(4) A copy of the register as approved by the Board shall be furnished to the trustee and to the committee, if any, concerned.

39. (1) The trustee or his authorized agent shall annually scrutinize the entries in the register and shall submit to the Board for its approval a verified statement showing the alterations, omissions or additions required therein.

Annual verification of the register.

(2) The Board and the committee, if any, may on receipt of the statement make such inquiry as they think necessary and the Board may by order direct the alterations, omissions or additions which should be made in the register.

(3) A copy of the order under sub-section (2) shall be communicated to the trustee and the president of the committee, if any, concerned and he shall carry out the alterations, omissions or additions ordered by the Board in the copy of the register kept by him.

(Chapter IV.—Religious Endowments in general.)

Care required of trustee and his powers.

40. (1) ¹ [Subject to the provisions of the Malabar Temple Entry Act, 1938,] ² [and the Madras Temple Entry Authorization and Indemnity Act, 1939] the trustee of every religious endowment is bound to administer its affairs and to apply the funds and properties of such endowment in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof, and as carefully as a man of ordinary prudence would deal with such affairs, funds or properties if they were his own.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incident to the provident and beneficial management of the religious endowment and to do all things necessary for the due performance of the duties imposed on him.

Power of trustee of math or temple over trustees of specific endowments.

41. The trustee of specific endowments made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

Hereditary trustee.

42. (1) When a vacancy occurs in the office of hereditary trustee of a religious endowment and there is a dispute respecting the right of succession to such office, or

when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no legally constituted guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as such guardian, or

when a hereditary trustee is by reason of unsoundness of mind or other physical infirmity unable to discharge the functions of the trustee,

the Board in the case of maths and excepted temples and the committee in the case of other temples may appoint a fit person to discharge the functions of the trustee of such endowment, until another trustee succeeds to the office or the disability of the trustee ceases to exist, as the case may be.

Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902. Madras Act I of 1902.

(2) In making an appointment under sub-section (1), the Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession, in the case of temples.

(3) The person so appointed shall be entitled to exercise all the powers which a trustee could exercise in relation to such endowment.

¹ These words and figures were inserted by section 12 of the Malabar Temple Entry Act, 1938 (Madras Act XX of 1938).

² These words and figures were inserted by section 6 of the Madras Temple Entry Authorization and Indemnity Act, 1939 (Madras Act XXII of 1939).

(Chapter IV.—Religious Endowments in general.)

43. (1) All office-holders and servants attached to a temple or in receipt of any emolument or perquisite from the temples shall be under the orders and control of the trustee ; and the trustee may fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of lawful orders, neglect of duty, misconduct or other sufficient cause :

Provided that the ¹ [Provincial Government] may, in respect of any specified hereditary office-holder or servant or class of hereditary office-holders or servants and subject to the provisions of section 79, by order restrict and place under such control as they may think fit the exercise by the trustee of his powers of punishment under this sub-section.

(2) Any office-holder or servant of a temple other than an excepted temple punished by a trustee under sub-section (1) may, within such time as may be prescribed, appeal to the committee whose decision shall in the case of a non-hereditary office-holder or servant be final.

(3) A hereditary office-holder or servant of a temple other than an excepted temple may, within such time as may be prescribed, prefer a further appeal to the Board against the order of a committee on an appeal under sub-section (2) and the decision of the Board shall be final.

(4) Any office-holder or servant of an excepted temple punished by a trustee under sub-section (1) may, within such time, as may be prescribed, appeal to the Board whose decision shall be final.

44. Where an endowment for the performance of a charity or service connected with a temple consists merely of a charge on property and there is failure in the due performance of the charity or service by the person responsible, the trustee of the temple may require the person in possession of the property on which the endowment is a charge to pay to the trustee the expenses incurred or likely to be incurred in causing the charity or service to be performed otherwise. In default of such person making the payment as required by the trustee, the court shall, on the application of the trustee, pass an order for the recovery of the amount and such order may be enforced as if it were a decree of such court :

Provided that where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the charity or service, and the amount referred to in this section is recovered from

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Religious Endowments in general.)

the person in possession, the court shall, on the application of such person, pass an order for the recovery of the amount from the person responsible in law and such order may also be enforced as if it were a decree of such court.

Enfranchisement or freeing of lands, etc., held by a devadasi on condition of service in a temple.

¹[44-A. (1) (a) (i) Where the remuneration for any service to be performed by a devadasi in a temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the ²[Provincial Government] shall enfranchise the said lands from the condition of service, by the imposition of quit-rent.

(ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the ²[Provincial Government] shall enfranchise such assignment of revenue from the condition of service :

Provided that where, at the time when proceedings are taken under this sub-section, the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in sub-clause (i).

(iii) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in sub-clause (i) and of the assignment of land revenue in the manner laid down in sub-clause (ii).

Explanation.—For the purposes of this clause, a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the proviso to sub-clause (ii), the owner of the lands in question.

(b) Enfranchisement under clause (a) shall be effected in accordance with such rules as the ²[Provincial Government] may make in this behalf and shall take effect as and from such date as the ²[Provincial Government] may fix.

(2) Where the remuneration for such service consists, in whole or in part, of lands or of produce of lands not falling under sub-section (1) the ²[Provincial Government] shall direct the Collector to determine the amount of rent payable on the lands or the produce in question. The Collector shall thereupon, after giving notice to the parties concerned and

¹ Section 44-A was inserted by section 2 of the Madras Hindu Religious Endowments (Amendment) Act, 1929 (Madras Act V of 1929).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Religious Endowments in general.)

holding such inquiry as may be prescribed by the ¹ [Provincial Government], by an order determine the amount of rent, and in doing so, he shall have due regard to

- (a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages ; and
- (b) the improvements, if any, effected by the devadasi, in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the Collector under sub-section (2) may be questioned by petition presented to the Board of Revenue within three months of the date of the publication of the order under the said sub-section but subject to the result of such petition, the order of the Collector fixing the amount of rent under sub-section (2) shall be final and shall not be liable to be contested in any court of law :

Provided, however, that the Board of Revenue shall have power on sufficient grounds to entertain a petition presented after the expiration of the period of three months.

(4) While determining the rent under sub-section (2), the Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service as and from the date so fixed.

(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable on such land, assignment, or produce being enfranchised or freed, as the case may be, in the manner hereinbefore provided.

(6) No order passed under sub-sections (1), (2) and (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land or assignment of land revenue or produce derived from land as the case may be.

(7) (a) The quit-rent imposed under sub-section (1) shall be payable to the temple concerned.

(b) The assignment of land revenue enfranchised under sub-section (1) or the rent fixed under sub-sections (2) and (3) as the case may be shall be payable to the devadasi concerned during her lifetime and after her death to the temple concerned.

(8) For the purpose of this section 'devadasi' shall mean any Hindu unmarried female, who is dedicated to a temple.]

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—*Religious Endowments in general.*)

Resumption and re-grant of inam granted for the performance of any charity or service connected with a math or temple in case of alienation of the inam or of failure to perform the charity or service.

¹ [44-B. (1) Any exchange, gift, sale or mortgage, and any lease for a term exceeding five years, of the whole or any portion of any inam granted for the performance of a charity or service connected with a math or temple and made, confirmed or recognized by the British Government, shall be null and void.

(2) (a) The Collector may, on his own motion, or on the application of the trustee of the math or temple or of the Committee or of the Board or of any person having interest in the math or temple who has obtained the consent of such trustee, committee or Board, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely: —

(i) that the holder of such inam or part has made an exchange, gift, sale or mortgage of the same or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(ii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of such math or temple, the charity or service for performing which the inam had been made, confirmed or recognized by the British Government, or any part of the said charity or service, as the case may be, or

(iii) that the math or temple has ceased to exist or the charity or service in question has in any way become impossible of performance.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the kudivaram or only of the melvaram.

(b) Before passing an order under clause (a), the Collector shall give notice to the trustee, to the committee, to the Board, to the inamdar concerned or where only a part of the inam is affected, to the holder of such part as well as to the holder or holders of the other part or parts, and to the alienee, if any, hear their objections, if any, and hold such inquiry as may be prescribed.

(c) A copy of every order passed under clause (a) shall be communicated to each of the persons and bodies mentioned in clause (b), and shall also be published in the manner prescribed.

¹ Section 44-B was inserted by section 2 of the Madras Hindu Religious Endowments (Amendment) Act, 1934 (Madras Act XI of 1934).

(Chapter IV.—Religious Endowments in general.)

(d) (i) Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal the District Collector may, after giving notice to each of the persons and bodies mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed, shall be final :

Provided that where there has been an appeal under sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired, any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a Civil Court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months—

from the date of the order of the District Collector on appeal, where there has been an appeal under sub-clause (i), or,

from the date of the expiry of the period prescribed under sub-clause (i) for an appeal to the District Collector, in a case where there has been no appeal.

(e) Except as otherwise provided in clause (d) an order of resumption passed under this section shall not be liable to be questioned in any court by suit or otherwise.

(f) Where any inam or part of an inam is resumed under this section, the Collector or the District Collector, as the case may be, shall, by order, re-grant such inam or part—

(i) as an endowment to the math or temple concerned, or

(ii) in case of resumption on the ground that the math or temple has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment to the Board, for appropriation to such religious, educational or charitable purposes not inconsistent with the objects of such math or temple, as the Board may direct.

(g) The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h) Nothing in this section shall affect the operation of section 44-A.]

(Chapter IV.—*Religious Endowments in general.*)

Maintenance of accounts and appointment of auditors. 45. (1) A Board, a committee and the ¹[trustee of any math or temple or of any religious endowment attached to any math or temple] shall keep regular accounts of receipts and disbursements.

(2) Such accounts shall be audited annually, or at such other intervals as may be prescribed, by auditors appointed by the ²[Provincial Government]. Auditors so appointed shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Submission of audit report. 46. After completing the audit the auditor shall submit a report—

(a) to the ²[Provincial Government] in the case of the accounts of a Board,

(b) to the Board in the case of the accounts of a committee, math or excepted temple, and

(c) to the committee in the case of the accounts of temples over which it has jurisdiction.

Contents of the audit report. 47. (1) The report of the auditor shall among other things specify all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the institution, or of loss or waste of money or other property of the institution caused by neglect or misconduct.

(2) The auditor shall also report on any other matter which the Board or committee may require in respect of any specified religious endowment.

Recovery of cost of audit. ³48. (1) Notwithstanding any provision to the contrary contained in the scheme, if any, settled or deemed to be settled under this Act, the cost of auditing the accounts of any math or temple or any religious endowment attached to any math or temple shall be payable out of the funds of such math, temple or religious endowment. Such cost shall be fixed by the Board and shall not exceed one and a half per centum of the gross income of the math, temple or religious endowment concerned and shall be paid by the trustee thereof within the time allowed, and in accordance with the directions issued, by the Board, subject to any rules which the ²[Provincial Government] may prescribe in this behalf.

¹ These words were substituted for the words "trustee of a religious endowment" by section 3 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This section was substituted for the original section 48 by section 4 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII 1935).

(Chapter IV.—*Religious Endowments in general.* Chapter V.—*Temples.*)

(2) If such cost is not paid within the time allowed, it shall be recovered in the manner provided in sub-sections (2), (3) and (4) of section 70 as if the default in such payment were a default in the payment of the amounts specified in sub-section (1) of that section. The protection conferred by sub-section (5) of the said section on the ¹ [Crown] and ² [servants of the Crown], shall also be available to them in respect of anything in good faith done or intended to be done in pursuance of this sub-section.

(3) The cost of auditing the accounts of a committee shall be fixed by the Board and met from the funds of the committee. It shall be paid by the president of the committee within the time allowed, and in accordance with the directions issued, by the Board.]

CHAPTER V.

Temples.

49. The provisions of this chapter shall not apply to excepted temples or the trustees thereof. Chapter not to apply to excepted temples.

50. No person may succeed, or be appointed, to the office of trustee of a temple unless he professes the Hindu religion. Trustee to be Hindu.

51. (1) Subject to the provisions of sub-section (4) the number of non-hereditary trustees for any temple shall be fixed by the committee, but shall not exceed three. Non-hereditary trustees, their number and appointment.

(2) Non-hereditary trustees shall be appointed by the committee and in making such appointments the committee shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the temple concerned is chiefly maintained.

(3) A non-hereditary trustee shall hold office for five years from the date of the order appointing him, unless in the meanwhile he is removed or dismissed, or his resignation is accepted, by the committee, or he ceases otherwise to be a trustee.

(4) Every non-hereditary trustee lawfully holding office on the date of commencement of this Act shall be deemed to have been duly appointed trustee under this Act on such date, but shall be entitled to hold office only for one year from such date.

52. The trustee of a temple shall be bound to obey all orders issued under the provisions of this Act by the Board or committee or the President of such Board or committee. Trustee to obey orders of committees.

¹ This word was substituted for the words "Secretary of State for India in Council" by Schedule II to the Government of India. (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "officers of Government" by *ibid.*

(Chapter V.—Temples.)

Removal
and dis-
missal of
trustees.

53. (1) The committee may suspend, remove or dismiss the trustee of a temple—

- (a) for persistent default in the submission of budgets, accounts, reports or returns, or
- (b) for wilful disobedience of lawful orders issued by the Board or committee, or the President of such Board or committee, or
- (c) for any malfeasance, misfeasance, breach of trust, or neglect of duty in respect of the trusts, or
- (d) for any misappropriation of, or improper dealing with, the properties of the temple of which he is trustee, or
- (e) for unsoundness of mind or other physical infirmity which unfits him for discharging the functions of a trustee.

(2) When the committee proposes to take action under sub-section (1) it shall frame charges against the trustee concerned and give him an opportunity of explanation, of testing the evidence against him and of adducing evidence in his favour and may place the trustee under suspension pending the disposal of the charges framed. The order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding of the committee on each charge with the reasons therefor.

(3) A trustee suspended, removed or dismissed under this section may, within three months of the date of the communication of the order of suspension, removal or dismissal, appeal to the Board against such order :

Provided that a hereditary trustee may, in lieu of appealing to the Board, apply within the same period to the court to modify or cancel the order of the committee.

(4) The order of the committee under this section shall, when no appeal is preferred or application made under sub-section (3), be final ; and when such appeal is preferred or application is made the order of the Board or the court, as the case may be, shall be final.

Disqualifica-
tions of
trustees.

54. (1) A non-hereditary trustee shall cease to hold his office if he—

- (a) is sentenced by a court to such punishment as is described in sub-section (2) of section 26 and subject to the proviso contained therein ;
- (b) applies to be adjudicated or is adjudicated a bankrupt or insolvent ; or
- (c) ceases to profess the Hindu religion.

(2) A hereditary trustee shall cease to hold his office if he ceases to profess the Hindu religion.

(Chapter V.—Temples.)

(3) If a hereditary trustee becomes subject to any of the disqualifications described in clause (a) or clause (b) of sub-section (1), the committee may supersede him and appoint a fit person to administer the temple until the disability of the trustee ceases to exist or another trustee succeeds to the office.

(4) The Board shall, in cases of dispute or doubt, determine whether a trustee is disqualified under this section and its decision shall be final. Fixing of standard scales of expenditure in temples.

55. Subject to the provisions of any scheme settled or deemed to be a scheme settled under this Act—

- (1) The trustee of a temple may from time to time submit to the committee proposals for fixing the *dittam* or scale of expenditure in the temple and the amounts which should be allotted to the various objects or ceremonies connected with such temple or the proportions in which the income or other property of the temple may be applied to such objects or ceremonies.
- (2) The trustee shall publish such proposals at the temple and in such other manner as the committee may direct, together with a notice stating that, if within one month from the date of such publication any objection or suggestion is received from any person having interest, the committee will consider such objection or suggestion.
- (3) After the expiry of the period fixed under sub-section (2), the committee shall consider the objections or suggestions that may have been received and may pass such orders as it thinks fit on the proposals.
- (4) The trustee or any person having interest may within six months of the date of the order passed by the committee under sub-section (3) either appeal to the Board against such order or institute in the court a suit to modify or set aside the same. If such an appeal is preferred or such a suit is instituted the Board or the court shall give at the expense of the appellant or the plaintiff, as the case may be, notice of the appeal or of the institution of the suit to all persons having interest either by personal service or where from the number of persons or any other cause such service is not reasonably practicable by public advertisement as the Board or court may in each case direct.
- (5) Subject to the result of such appeal or suit as is referred to in sub-section (4) the order of the committee shall be final. The order of the Board on appeal shall be final.
- (6) The *dittam* or scale of expenditure for the time being in force in a temple shall not be altered by the trustee except in accordance with the procedure laid down in this section.

(Chapter V.—Temples.)

Budgets of temples.

56. (1) The trustee of every temple shall in each year submit to the committee before such date and in such form as the Board may require, a budget showing the probable receipts and disbursements of the temple and the endowments connected therewith during the following year.

(2) Every such budget shall make adequate provision for the *dittam* or scale of expenditure for the time being in force and the due discharge of all liabilities in respect of loans.

(3) The committee may within such time after the receipt of the budget as the Board may fix, direct the trustee to make such alterations, omissions or additions in the budget as it may think fit.

(4) The trustee may, within such time as the Board may fix, appeal against the order of the committee under sub-section (3) to the Board whose decision shall be final.

Schemes for non-excepted temples.

57. (1) When the Board is satisfied that, in the interests of the proper administration of the endowments of a temple, a scheme of administration should be settled, the Board may, after consulting in the prescribed manner the trustee, the committee, if any, and the persons having interest, by order settle a scheme of administration for the endowments of such temple.

¹ [A scheme settled by the Board under this sub-section may contain provision for—

- (a) fixing the number of non-hereditary trustees ;
- (b) removing any existing trustee or trustees whether hereditary or non-hereditary ;
- (c) appointing a new trustee or trustees in addition to or in the place of any existing trustee or trustees, whether hereditary or non-hereditary :
Provided that where provision is made in the scheme for the removal of a hereditary trustee provision shall also be made therein for the person next in succession who is qualified being appointed as trustee ;
- (d) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary as may be fixed by the Board, to be paid out of the trust funds, and defining the powers and duties of such officer ; or
- (e) defining the powers and duties of the trustee or trustees.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a temple.]

¹This was added by section 5 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

1[(1-A) The Board may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (1) or direct the removal of such officer.]

(2) The Board may by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

(3) Every order of the Board under this section shall be published in the prescribed manner.

The trustee or any person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order. Subject to the result of such suit every order of the Board shall be final and binding on the committee, the trustee and all persons having interest.

(4) Any scheme of administration which has been settled by a court under this section or which under section 75 is deemed to be a scheme settled under this Act may, at any time, for sufficient cause be modified or cancelled by the court in a suit instituted by the Board or the trustee or any person having interest, but not otherwise.

58. (1) Vacancies amongst the office-holders or servants of a temple shall be filled up by the trustee in cases where the office or service is not hereditary.

Filling up of vacancies among office-holders or servants.

(2) In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed :

Provided that, if there is a dispute respecting the right of succession to such office or service, or in cases where such vacancy cannot be filled up immediately, or where the person entitled to succeed is a minor without a legally constituted guardian fit and willing to act as such, or where the hereditary office-holder or servant is by reason of unsoundness of mind or other physical infirmity unable to discharge the functions of the office or perform the service, the trustee may appoint a fit person to discharge the duties of the office or perform the service, until another person succeeds to the office or service or the disability of the office-holder or servant ceases to exist, as the case may be.

(3) In making an appointment under the proviso to sub-section (2), the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

59. The trustee of every temple shall furnish such accounts, returns, reports or other information relating to the administration of the temple in his charge and at such time and in such form as the committee or Board may require.

Trustees to furnish accounts, etc., to committee or Board.

¹ Sub-section (1-A) was inserted by section 5 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

(Chapter V.—Temples. Chapter VI.—Maths and excepted temples.)

Inspection by president or member of endowments.

60. The president or any member of the committee deputed by him in this behalf may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to any temple, and the trustee of such temple and all officers and servants working under him shall afford to the president or such member such assistance as may be necessary.

Exercise of the rights and powers and discharge of the duties of a committee by the Board in certain cases.

¹ [60-A. (1) Where for any local area or any class or classes of institutions in any local area, a committee has not been constituted or is not in existence, the Board and its President may, notwithstanding anything contained in this Act, exercise all or any of the powers and perform all or any of the duties of the committee and its president respectively, until a committee is constituted or comes into existence.

(2) The provisions of this Act relating to appeal from the orders of a committee to the Board or the approval of the actions of a committee by the Board shall not apply to the orders or actions of the Board acting under sub-section (1).]

CHAPTER VI.

Maths and excepted temples.

Submission of budgets and annual accounts.

61. The trustee of every math and excepted temple shall in each year submit to the Board before such date and in such form as the Board may require—

- (a) a budget showing the probable receipts and disbursements of the following year, and
- (b) a statement of the actual receipts and disbursements of the previous year.

Inquiry by Board into mismanagement by trustees.

62. When the Board has reason to believe that the trustee of a math or excepted temple has been mismanaging the endowments of such math or temple or has been spending or alienating them for improper purposes, or when not less than twenty persons having interest make an application to the Board stating that in the interests of the proper administration of such endowments a scheme of administration should be settled, the Board may hold an inquiry which shall be conducted in such manner as may be prescribed.

Schemes for maths and excepted temples.

63. (1) If after making the inquiry referred to in section 62 the Board is satisfied that the trustee concerned has mismanaged the endowments of such math or temple or has spent or alienated them for improper purposes, or that, in the interests of the proper administration of such endowments, a scheme of administration should be settled, the

¹ Section 60-A was added by section 2 of the Madras Hindu Religious Endowments (Amendment) Act, 1931 (Madras Act XI of 1931).

(Chapter VI.—Maths and excepted temples.)

Board may, after consulting in the prescribed manner the trustee and the persons having in erest, by order settle a scheme of administration for the endowments connected with such math or temple.

¹ [A scheme settled by the Board under this sub-section may contain provision for—

- (a) fixing the number of non-hereditary trustees ;
- (b) appointing a new trustee or trustees in addition to the existing trustee or trustees ;
- (c) associating one or more persons with the trustee or trustees or constituting a separate body, for the purpose of participating or assisting in the whole or any part of the administration of the endowments connected with such math or temple :

Provided that where the Board considers it necessary to associate any person or persons with the trustee or trustees of a math or to constitute any separate body for participating or assisting in the administration of a math, such person or persons or the members of such body shall be chosen from persons having interest in such math ;

- (d) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary as may be fixed by the Board, to be paid out of the trust funds, and defining the powers and duties of such officer ; or
- (e) defining the powers and duties of the trustee or trustees.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a math or temple.]

² [(1-A) The Board may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (1) or direct the removal of such officer.]

³ [* * * * *]

(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

¹ This was added by section 6 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

² Sub-section (1-A) was inserted by *ibid.*

³ Sub-section (2) was omitted by *ibid.*

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(Chapter VI.—*Maths and excepted temples. Chapter VI-A.—
Notified temples.*)

(4) Every order of the Board under this section shall be published in the prescribed manner.

The trustee or any person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order .

Finality of Board's order.

64. Every order of the Board under section 63 shall, subject to the result of any suit which may be instituted under sub-section (4) of that section, be final and binding on the trustee and all persons having interest.

Modification or cancellation of schemes.

65. Any scheme of administration which has been settled by a court under section 63 or which under section 75 is deemed to be a scheme settled under this Act may, at any time, for sufficient cause be modified or cancelled by the court in a suit instituted by the Board or the trustee or any person having interest but not otherwise.

¹ [CHAPTER VI-A.
Notified temples.

Power of Provincial Government to notify temple or endowment to be subject to the provisions of this chapter.

65-A. (1) (a) The Board may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest in a temple or in any specific endowment attached to a temple to show cause why such temple or endowment should not be subject to the provisions of this Chapter.

(b) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue thereof, for showing such cause.

(2) (a) The trustee or any person having interest in the temple or endowment may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.

(b) Such objection shall be in writing and shall reach the Board before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Board in that behalf.

(3) Where no such objection has been received within the time specified in the notice issued under sub-section (1) or within such further time as may be granted by the Board, the ²[Provincial Government] may, by notification published in the ³[Official Gazette], declare the temple or endowment to be subject to the provisions of this Chapter.

¹ Chapter VI-A was inserted by section 7 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter VI-A.—Notified temples.)

(4) Where any such objection or objections has or have been received within the time specified in the notice issued under sub-section (1) or within such further time as may be granted by the Board, the Board shall hold an enquiry into the objection or objections in the manner prescribed, and decide whether the temple or endowment concerned should be notified to be subject to the provisions of this Chapter or not.

Explanation.—The powers conferred on the Board by this sub-section shall be exercised by a Committee of the Board consisting of not less than three commissioners of whom the president shall be one.

(5) (a) If a committee of the Board decides that the temple or endowment should be notified as aforesaid, the Board shall publish its decision in the ¹[Official Gazette].

(b) The trustee or any person having interest may appeal against such decision to the Board within two months from such publication and such appeal shall be heard and decided by the president and all the other commissioners of the Board sitting together. If no such appeal is preferred or if such an appeal is preferred and dismissed, then the ² [Provincial Government] may, by notification published in the ¹[Official Gazette], declare the temple or endowment to be subject to the provisions of this Chapter.

65-B. On the publication of a notification in respect of any temple or endowment under section 65-A, the scheme of administration, if any, settled for such temple or endowment by any Court or by the Board, as the case may be, and all rules, if any, framed under such a scheme shall cease to apply to such temple or endowment. Schemes cease to apply to notified temple or endowment.

65-C. (1) For every notified temple or endowment, the Board shall appoint a salaried executive officer, who shall be a person professing the Hindu religion, as soon as may be after the publication of the notification under section 65-A in respect of such temple or endowment. Appointment of executive officer for notified temple or endowment and his powers and duties.

(2) The executive officer shall hold office for such period as may be fixed by the Board in that behalf and he shall exercise such powers and perform such duties as may be vested in or assigned to him by the Board.

Explanation.—The Board shall define the powers and duties which may be exercised and performed respectively by the executive officer and the trustee, if any, of the notified

¹ These words were substituted for the words "*Fort St. George Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government" by *ibid.*

(Chapter VI-A.—Notified temples. Chapter VII.—Application of Endowment Funds.)

temple or endowment. The executive officer shall for purposes of section 78 be deemed to be a person appointed to discharge the functions of a trustee under the Act.

(3) The executive officer shall be paid such salary and allowances as may be determined by the Board from the funds of the notified temple or endowment.

(4) The Board may, for good and sufficient cause, suspend, remove or dismiss the executive officer.

Jurisdiction over notified temple or endowment.

65-D. (1) Notwithstanding anything contained in this Act—

(i) no temple committee shall be entitled to exercise any jurisdiction over a notified temple or endowment ; and

(ii) the Board and its President may, in respect of any notified temple other than an excepted temple and in respect of any notified endowment other than an endowment attached to an excepted temple, exercise all or any of the powers and perform all or any of the duties of the committee and its President, respectively.

(2) The provisions of this Act relating to appeals from the orders of the committee to the Board or the approval of the actions of a committee by the Board shall not apply to the orders or actions of the Board acting under clause (ii) of sub-section (1).

Sections 57, 62 and 63 not to apply to notified temple or endowment.

65-E. Sections 57, 62 and 63 shall cease to apply to such temples and endowments as are notified under section 65-A.]

CHAPTER VII.

Application of Endowment Funds.

Authority of trustee to incur expenditure on health, etc., of pilgrims and worshippers.

66. The trustee of a math or temple may, out of the funds of the endowments in his charge, after satisfying adequately the purposes of the endowments, incur expenditure on arrangements for securing the health, safety, or convenience of disciples, pilgrims or worshippers resorting to such math or temple ;

(Chapter VII.—Application of Endowment Funds.)

Provided that the Board in the case of maths and excepted temples and the committee in the case of other temples may, for reasons to be set forth in writing, restrict and place under such control as they may think fit the exercise by the trustee of his discretion under this section.

67. (1) The Board may, after holding an enquiry in such manner as may be prescribed, by order, declare that the purpose of a religious endowment has from the beginning been, or has subsequently become, impossible of realization or that the machinery for effectuating the original purposes of the endowment has failed or no longer exists, or that after satisfying adequately the purposes of the endowment and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto there is a surplus which is not required for such purposes ; and may, by such order, direct that the amount of the endowment or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes not inconsistent with the objects of such math or temple :

Cyprus
application
of endow-
ment
or surplus.

Provided that in the case of a temple founded and maintained by a community the amount of the endowment or the surplus shall, as far as possible, be utilized for the benefit of the community for the purposes mentioned above.

(2) It shall be competent to the Board when giving a direction under sub-section (1) to determine what portion of such amount or surplus shall be retained as a reserve fund for the math or temple and to direct the remainder to be appropriated to the purposes specified in that sub-section.

(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel an order passed under that sub-section.

(4) The order of the Board under this section shall be published in the prescribed manner. The trustee or any other person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order.

Subject to the result of such suit the order of the Board shall be final and binding on the committee, if any, the trustee and all persons having interest.

(5) Any decision of the court under this section may, at any time, for sufficient cause be modified or cancelled by the court in a suit instituted by the Board or the trustee or any person having interest but not otherwise.

(Chapter VIII—Finance.)

CHAPTER VIII.

Finance.

Recovery from endowment of expenses incurred by the Board or committee on legal proceedings.

68. All costs and expenses incurred in connexion with legal proceedings in respect of any religious endowment to which a Board or committee is a party shall, notwithstanding anything contained in section 74, be payable out of the funds of such endowment.

Annual contribution from endowments to the Board and committee.

69. ¹[(1) Every math or temple and every specific endowment attached to a math or temple shall pay annually for meeting the expenses of the Board such contribution not exceeding one and a half per centum of its income as the Board may determine :

Provided that every notified temple other than an excepted temple, and every notified endowment other than an endowment attached to an excepted temple shall pay annually to the Board such contribution not exceeding three per centum of its income as the Board may determine.]

(2) ²[Every temple other than an excepted or notified temple and every specific endowment attached to a temple other than an excepted or notified temple] shall pay annually for meeting the expenses of the committee such contribution not exceeding one and a half per centum of its income as the committee may with the approval of the Board determine.

(3) Religious endowments the administration of which is governed by a scheme settled under section 92 of the Code of Civil Procedure, 1908, shall, notwithstanding anything ^{v of 1908.} to the contrary contained in such scheme, be liable to pay the contribution under this section.

Assessment and recovery of costs, expenses and contributions.

70. (1) The costs, expenses and contributions payable under sections 68 and 69 shall be assessed on and notified to the trustee of ³ [the math, temple or specific endowment concerned] in the prescribed manner.

⁴ [* * * * *]

¹ This sub-section was substituted for the original sub-section (1) by section 8 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

² These words were substituted for the words "Every temple other than an excepted temple" by *ibid.*

³ These words were substituted for the words "every math and temple" by section 9, *ibid.*

⁴ The words "Where the contribution or a portion of the contribution has to be paid by a specific endowment, the same shall be assessed on and notified to the trustee of the specific endowment also" were omitted by *ibid.*

(Chapter VIII.—Finance.)

¹[(2) (a) Such trustee shall, within one month of the date of his receipt of such notice or within such further time as may be granted by the Board or committee, pay out of the funds of the math, temple or endowment concerned, the amount so demanded to the President of the Board or of the committee, as the case may be, or to any person authorized by him ; and in default of such payment, the Collector of the district in which any property of the math, temple or endowment is situated shall, on a requisition made to him in the prescribed form by the President of the Board or of the committee, as the case may be, and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue and the amount so recovered shall, after deduction therefrom of such percentage on account of the cost of recovery as the ²[Provincial Government] may by general or special order from time to time determine, be paid to such president.

(b) On receipt of a requisition under clause (a), the Collector shall issue a notice to the trustee concerned—

- (i) requiring him, within fifteen days from the service of such notice, either to pay the amount mentioned in the requisition and specified in the notice or to state in writing his objections, if any, thereto, and
- (ii) stating that such amount or the amount found due from the trustee after his objections, if any, have been considered will be recovered as if it were an arrear of land revenue.

(c) If, within the period of fifteen days aforesaid, no objection in writing is received by the Collector from the trustee, the Collector shall proceed to recover the amount specified in the notice as if it were an arrear of land revenue.

(d) If, within the said period, an objection in writing is received by the Collector from the trustee with regard either to his liability or to the amount specified in the notice, the Collector shall transmit such objection to the President of the Board.

(e) The President of the Board shall consider the objection so transmitted and communicate to the Collector his decision confirming, withdrawing or modifying the original demand.

¹ Sub-sections (2) to (5) were substituted for the original sub-section (2) by section 3 of the Madras Hindu Religious Endowments (Amendment) Act, 1931 (Madras Act XI of 1931).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Law) Order, 1937.

(Chapter VIII.—Finance. Chapter IX.—Miscellaneous.)

(f) The Collector shall then proceed to recover the amount, if any, due from the trustee under the decision so communicated as if it were an arrear of land revenue.

(3) The Collector may, on receipt of a requisition under clause (a) of sub-section (2), withhold the amount mentioned therein out of the tasdik or other allowance payable by the ¹ [Provincial Government] to the math or temple concerned and pay to the President of the Board or of the committee, as the case may be, the said amount after the expiry of the period of fifteen days referred to in clause (b) of sub-section (2) or in case an objection is received under clause (d) of that sub-section the amount, if any, due under the decision referred to in clause (e) thereof. Where the tasdik or other allowance is insufficient for the purpose, the Collector may withhold and pay as aforesaid the amount available and recover the balance as if it were an arrear of land revenue.

(4) Places of worship including temples and tanks where utsavams are performed, idols, vahanams and jewels and such vessels and other articles of a math or temple as, in accordance with the usage of the temple or math concerned, are necessary for purposes of worship or ceremonial processions shall not be liable to be proceeded against in pursuance of sub-sections (2) and (3).

(5) No suit, prosecution or other legal proceeding shall be entertained in any Court against the ² [Crown] or any ³ [servant of the Crown] for anything in good faith done or intended to be done in pursuance of this section.]

CHAPTER IX.

Miscellaneous.

Power of
Provincial
Government
to make
rules.

71. (1) The ¹ [Provincial Government] may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules with reference to the following matters :—

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the registration of electors ;

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This word was substituted for the words " Secretary of State for India in Council " by Schedule II, *ibid.*

³ These words were substituted for the words " officer of Government " by *ibid.*

(Chapter IX.—Miscellaneous.)

- (c) the nominations of candidates, the times of election, the mode of recording and counting votes and the declaration and publication of the results of elections ;
 - (d) the conduct of inquiries and the decision of disputes relating to elections ;
 - (e) the powers of the President and commissioners of a Board to hold inquiries, to summon and examine witnesses and to compel the production of documents ;
 - (f) the grant of leave, leave allowances and travelling allowances to the President and commissioners of a Board and generally the conditions of service of such President and commissioners ;
 - (g) the budgets, reports, accounts, returns or other information to be submitted by Boards ;
 - (h) the qualifications for officers and servants of a Board, the grant of leave, leave allowances and travelling allowances to them, the establishment of provident funds for them and generally the conditions of their service ;
 - (i) the organization of a staff of auditors, their salaries and allowances, the control of such staff, its relations with Boards, committees and trustees and generally the conditions of service of auditors ;
 - (j) the calculation of the cost of audit and its apportionment among Boards and committees ;
 - (k) the manner in which the accounts of Boards, committees or endowments shall be audited and published, the time and place of audit and the form and contents of the auditor's report ; and
 - (l) the method of calculating the income of a religious endowment.
- (3) The power to make rules under this section shall be subject to the condition of previous publication.

72. (1) The ¹[Provincial Government] may make rules altering, adding to, or cancelling any of the schedules to this Act. Power to alter schedules.

(2) All references made in this Act to any of the aforesaid schedules shall be construed as referring to such schedules as amended in exercise of the powers conferred by sub-section (1).

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IX.—Miscellaneous.)

(3) A draft of the rules proposed to be made under this section shall be laid ¹ [before both the Chambers of the Provincial Legislature] and the rules shall not be made ² [unless both Chambers] by resolution ³ [approve] the draft either without modification or addition or with modifications or additions ⁴ [to which both the Chambers agree]; but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be notified and shall thereafter be of full force and effect.

Suits

73. (1) The Board ⁵[. . . .] or any person having interest and having obtained the consent of the Board may institute a suit in the court to obtain a decree—

(a) appointing or removing the trustee of a math or excepted temple ⁶[or of a specific endowment attached to a math or excepted temple],

(b) vesting any property in a trustee,

(c) declaring what proportion of the endowed property or of the interest therein shall be allocated to any particular object of the endowment ⁷ [

. . .],

⁸ [(d) directing accounts and inquiries, or],

⁸ [(e)] granting such further or other relief as the nature of the case may require.

⁹[(2)] The provisions of sub-section (1) shall apply as well to suits and appeals pending in civil courts on the date of the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1935, as to suits and appeals instituted after the commencement of that Act.]

⁹[(3)] Sections 92 and 93 and rule 8 of Order I of the first schedule of the Code of Civil Procedure, 1908, shall ^{V of 1908.} have no application to any suit claiming any relief in respect of the administration or management of a religious

¹ These words were substituted for the words "on the table of the Legislative Council" by Schedule II, to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "unless the Legislative Council" by *ibid.*

³ This word was substituted for the word "approves" by paragraph 5 (2), *ibid.*

⁴ These words were inserted by Schedule II, *ibid.*

⁵ The words "or committee having jurisdiction over any math or temple" were omitted by section 10 of the Madras Hindu Religious Endowments (Amendment) Act, 1935 (Madras Act XII of 1935).

⁶ These words were inserted by *ibid.*

⁷ The word "or" was omitted by *ibid.*

⁸ Clause (d) was relettered as clause (e) and new clause (d) was inserted by *ibid.*

⁹ Sub-section (2) was renumbered as (3) and new sub-section (2) was inserted by *ibid.*

(Chapter IX.—Miscellaneous.)

endowment and no suit in respect of such administration or management shall be instituted except as provided by this Act.

74. The costs, charges and expenses of and incidental to any suit or application under this Act or to any appeal from a decree or order passed in such suit or on such application shall be in the discretion of the court, which may subject to the provisions of section 68 direct the whole or any part of such costs, charges and expenses to be met from the property or income of the endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

Cost of suits,
etc.

¹ [74-A. The costs of and incident to all proceedings before the Board shall be in the discretion of the Board, which shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid; and the order passed in this regard may be transferred for execution to the court and shall be executed by the court as if the order had been passed by itself.]

Cost of pro-
ceedings,
etc.

V of 1908.

75. Where the administration of a religious endowment is governed by any scheme settled under section 92 of the Code of Civil Procedure, 1908, such scheme shall, notwithstanding any provisions of this Act which may be inconsistent with the provisions of such scheme, be deemed to be a scheme settled under this Act; and such scheme may be modified or cancelled in the manner provided by this Act.

Schemes
settled
under
section 92
of the Civil
Procedure
Code.

76. (1) No exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to any math or temple shall be valid or operative unless it is necessary or beneficial to the math or temple and is sanctioned by the Board in the case of maths and excepted temples and by the committee in the case of other temples.

Alienation
of immova-
ble trust
property.

(2) The trustee of the math or temple or any person having interest may, within one year of the date of the order of the Board or committee under sub-section (1), apply to the court for modifying or cancelling such order.

(3) The order of the Board or committee under sub-section (1) when no application is made under sub-section (2) and the order of the court when such application is made shall be final.

77. (1) Where an endowment has been made or property given for the support of an institution which is partly of a religious and partly of a secular character or for the performance of any service or charity connected therewith, or

Application
of the Act
to endow-
ments partly
religious and
partly
secular.

¹ Section 74-A was inserted by section 9 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

(Chapter IX.—Miscellaneous.)

where an endowment made or property given is appropriated partly to religious and partly to secular uses, the Board may notwithstanding anything contained in the Madras Endowments and Escheats Regulation, 1817, determine what portion of such endowment or property or of the income therefrom shall be allocated to religious uses. Such portion shall thereafter be deemed to be a religious endowment and its administration shall be governed by the provisions of this Act.

Madras
Regulation
VII of 1817.

(2) Any party affected by an order under sub-section (1) may within such time as may be prescribed apply to the court to modify or set aside such order but, subject to the result of such application, the order of the Board shall be final.

Putting trustee in possession.

¹ [78. Where a person has been appointed as trustee of a math or temple or a religious endowment connected therewith or has been appointed to discharge the functions of a trustee by the committee or the Board, in accordance with the provisions of this Act and such person is resisted in, or prevented from obtaining possession of the math, temple or religious endowment concerned and the records, accounts and properties thereof, the court may on application by the person so appointed and on production of the order of appointment, direct the delivery to such person of the possession of the math, temple or religious endowment and of the records, accounts and properties thereof.]

Saving of established customs and usages.

79. Save as otherwise expressly provided in or under this Act nothing herein contained shall affect any established usage of a math or temple or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in such math or temple

Government not to interfere with religious endowments except as provided by this Act.

80. Save as provided in this or any other Act, it shall not be lawful for the ²[Provincial Government] or for any executive officer of the ²[Provincial Government] in his official capacity to undertake or assume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any math or temple, to take any part in the management or appropriation of any endowment made for its maintenance, or to nominate or appoint the trustee of any religious endowment or to be concerned in any way with any religious endowment.

¹ This section was substituted for the original section 78 by section 10 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IX.—Miscellaneous.)

Madras Act V of 1922. **81.** (1) Notwithstanding anything contained in the first or second schedule to the Madras Court Fees (Amendment) Act, 1922, the proper fees for the documents described in columns (1) and (2) of Schedule II shall be the fees indicated in column (3) thereof.

Madras Act V of 1922. (2) The provisions of the Madras Court Fees (Amendment) Act, 1922, shall otherwise, so far as may be, apply to the documents mentioned in Schedule II.

1 [82. The President of a Board or committee may grant copies of proceedings or other records of his office on payment of such fees and subject to such conditions as may be determined by the Board. Copies shall be certified by the President of the Board or committee or by such officer as may be authorized in this behalf by the President of such Board or committee, in the manner provided in section 76 of the Indian Evidence Act, 1872.]

XX of 1863. **83.** (1) Every committee established under the Religious Endowments Act, 1863, which is in existence at the commencement of this Act shall be deemed to have been duly constituted under the provisions of this Act.

(2) In their application to the members and presidents of committee in office at the commencement of this Act and the first reconstitution of such committees in accordance with this Act, the provisions of this Act shall be read subject to the rules contained in Schedule III.

2 [84. (1) If any dispute arises as to whether an institution is a math or temple as defined in this Act or whether a temple is an excepted temple, such dispute shall be decided by the Board.

(2) Any person affected by a decision under sub-section (1) may, within one year, apply to the court to modify or set aside such decision; but, subject to the result of such application, the order of the Board shall be final.]

85. If any difficulty arises as to the first constitution or reconstitution of any committee after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, the ³[Provincial Government], as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

¹ Section 82 was recast by section 11 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

² This section was substituted for the original section 84 by section 12 of the Madras Hindu Religious Endowments (Amendment) Act, 1930 (Madras Act IV of 1930).

³ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Schedule I—Part I.—Qualifications of electors. Part II.—Disqualifications of electors. Schedule II.)

SCHEDULE I.

[See section 25.]

Part I—Qualifications of electors.

A person shall be qualified as an elector for an electoral area who has resided in such area for not less than 120 days in the previous year and who—

- (a) was in the previous year assessed by a municipal council or local board to an aggregate amount of not less than twenty rupees in respect of one or more of the following taxes, viz.—
 - property tax,
 - tax on companies, or
 - profession tax, or
- (b) was in the previous year assessed to income-tax, or
- (c) is registered as a ryotwari pattadar or as an inamdar of land of which the annual rent value is not less than fifty rupees, or
- (d) holds on a registered lease under a ryotwari pattadar or inamdar land the annual rent value of which is not less than fifty rupees, or
- (e) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land, the annual rent value of which is not less than fifty rupees, or
- (f) is a landholder holding an estate of which the annual rent value is not less than fifty rupees, or
- (g) holds, as a ryot or tenant under a landholder, land the annual rent value of which is not less than fifty rupees.

Part II—Disqualifications of electors.

No person shall be entitled to have his name registered on the electoral roll of an electoral area who is subject to any of the following disqualifications:—

- (a) is not a British subject ;
- (b) has been adjudged to be of unsound mind by a competent court ; or
- (c) is under twenty-one years of age.

SCHEDULE II.

[See section 81.]

Section. (1)	Description of the document. (2)	Proper fee. (3) RS.
43 (2)	Appeal to the committee by any office-holder or servant against an order of punishment by a trustee under sub-section (1) ..	2

Section. (1)	Description of the document. (2)	Proper fee. (3)
		RS.
43 (3)	Further appeal to the Board by a hereditary office-holder or servant against an order of the committee on appeal under sub-section (2)	2
43 (4)	Appeal to the Board by an office-holder or servant of an excepted temple ..	2
44	Application to court by the trustee to recover the amount from the person in possession or by the person in possession from the person responsible in law	The fee leviable on a plaint for the amount claimed under the Madras Court Fees (Amendment) Act, 1922.
53 (3)	Appeal to the Board or application to court against an order of suspension, dismissal or removal by the committee of a trustee ..	25
55 (4)	Appeal to the Board by a trustee or person having interest against the order of a committee under sub-section (3) fixing standard scales of expenditure	20
55 (4)	Suit under the sub-section.	50
57 (3)	Suit under the sub-section.	50
57 (4)	Suit under the sub-section.	50
62	Application to the Board by not less than 20 persons having interest for framing a scheme of administration for a math or excepted temple ..	50
63 (4)	Suit under the sub-section.	50
65	Suit under the section ..	50
67 (4)	Suit under the sub-section.	50

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(Schedule II. Schedule III.—*Transitory Provisions.*)

Section. (1)	Description of the document. (2)	Proper fee. (3)
67 (5)	Suit under the sub-section. * * *	RS. 50
73	Suits under the section	50
76 (2)	Application to the court by the trustee of a math or temple or any person having interest for modifying or cancelling any order of the Board sanctioning alienation of immovable property under sub-section (1)	The fee leviable on a plaint under article 17, Schedule II, of the Madras Court Fees (Amendment) Act, 1922.
77 (2)	Application to a court to modify or set aside an order of the Board under sub-section (1) allocating any endowment, property or the income therefrom to religious and secular purposes	20
78	Application to the court for delivery of possession of endowments to a trustee appointed by the committee	2
84 (2)	Application to modify or set aside the decision of the Board under sub-section (1)	The fee leviable on a plaint under article 17, Schedule II, of the Madras Court Fees (Amendment) Act, 1922.

SCHEDULE III.

[See section 83.]

Transitory Provisions.

1. The ² [Provincial Government] shall fix a date, not being later than one year from the commencement of this Act on which the term of office of members of committees holding office at the commencement of this Act shall expire :

¹ The item relating to section 70 (2) was omitted by section 4 of the Madras Hindu Religious Endowments (Amendment) Act, 1931 (Madras Act XI of 1931).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(*Schedule III.—Transitory Provisions.*)

Provided that a member who is also the president of a committee shall continue to exercise the functions of a president until a new president is elected under rule 4.

2. Any vacancy in the office of president of a committee which is in existence at the commencement of this Act or which occurs before the date on which a new president is elected under rule 4 shall be filled up under the provisions of this Act ; and any vacancy in the office of member of a committee which is in existence at the commencement of this Act or which occurs before the date fixed under rule 1 shall be filled up by appointment by the ¹ [Provincial Government] :

Provided that any person elected or appointed as president or member under this rule shall hold office only up to the date referred to in rule 1.

3. The president of the committee shall cause arrangements to be made for election of members, so that the newly-elected members may come into office on the date fixed under rule 1 for the expiry of the terms of office of members holding office at the commencement of this Act.

4. On or as soon as may be after such date, a meeting shall be held on a day and at a time fixed by the president for the election of a new president.

MADRAS ACT No. III OF 1927. ²

[THE PRESIDENCY SMALL CAUSE COURTS (MADRAS
AMENDMENT) ACT, 1927.]

[3rd May 1927.]

An Act to amend the Presidency Small Cause Courts Act, 1882, in its application to the Presidency Town of Madras.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882, in its application to the Presidency Town of Madras for the purpose hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained ;

It is hereby enacted as follows :—

1. This Act may be called the Presidency Small Cause Courts (Madras Amendment) Act, 1927.

Short title.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th January 1927—Part IV, page 2.

Amendment of section 47, Act XV of 1882. 2. (a) In section 47 of the Presidency Small Cause Courts Act, 1882, for the words 'suit in the High Court against the applicant' the words 'suit against the applicant in the High Court or in the Madras City Civil Court, as the case may be,' shall be substituted; and

Amendment of section 49, Act XV of 1882. (b) In section 49 of the same Act, after the words 'suit in the High Court' the words 'or in the Madras City Civil Court, as the case may be,' shall be inserted.

MADRAS ACT No. IV OF 1927¹.

[THE MADRAS HIGH COURT (JURISDICTIONAL LIMITS)
ACT, 1927.]

[17th May 1927.]

WHEREAS clause 11 of the Letters Patent for the High Court of Judicature at Madras, dated the 28th December 1865, provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by the Governor in Council;

AND WHEREAS it is expedient so to declare and prescribe the local limits of the ordinary original civil jurisdiction of the said High Court;

AND WHEREAS the previous sanction of His Excellency the Governor-General has been obtained; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Madras High Court (Jurisdictional Limits) Act, 1927.

Limits of ordinary original civil jurisdiction of Madras High Court.

2. The ordinary original civil jurisdiction of the High Court of Judicature at Madras shall be exercised within the limits set out in the schedule:

Provided that nothing in this Act shall affect any suit or other legal proceeding pending in any Court at the date of the commencement of this Act.

THE SCHEDULE.

(See section 2.)

The limits within which the ordinary original civil jurisdiction of the High Court shall be exercised are as follows:—

North.—Commencing from the point where the boundary line between Tiruvottiyur village and Tondiarpet village meets the sea, along the boundary line between Tondiarpet and Tiruvottiyur and Sattankadu villages to the point where Sattankadu, Kodungiyur and Tondiarpet villages meet; thence in a south-westerly direction along the boundary line between Kodungiyur and Tondiarpet, so as to

¹ Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 12th February 1927—Part IV, pages 9–10.

(*The Schedule.*)

include the whole of Tondiarpet village ; thence in a westerly direction along the boundary line between the villages of Perambur and Erukkanjeri to the point where Perambur, Erukkanjeri and Sembiam villages meet.

West.—From the said point in a southerly direction along the western boundary of Perambur village and the eastern boundary of Sembiam, Siruvallur and Sinna Sembarampakkam villages to the south-west corner of Perambur village and thence in an easterly direction along the southern boundary of Perambur village to the point where the villages of Perambur, Purasawakam and Ayanapuram shrotriyam meet so as to include the whole of Perambur village ; thence along the boundary line between Purasawakam and Ayanapuram shrotriyam so as to include the whole of Purasawakam village ; thence along the boundary line between Egmore village and the villages of Ayanapuram shrotriyam, Aminjekarai shrotriyam and Agaramvada so as to include the whole of Egmore village ; thence along the boundary line between Nungambakkam village and Puliyur shrotriyam to the point where the South Indian Railway line enters Nungambakkam ; thence along the eastern side of the South Indian Railway boundary to the point where it intersects the boundary between Survey No. 170-1 and 2 ; thence eastwards in a straight line through Survey Nos. 170, 171, 172 and 173 to the junction of Survey Nos. 165, 172 and 173 and continued to meet the south-eastern boundary of Survey No. 173 ; thence north-westwards along the boundary between Survey No. 173 and Government Farm Survey No. 4 to its intersection with Survey No. 25 ; thence northwards fifty feet along the calingula and thence eastwards to a point in Survey No. 20 (2) of Mambalam zamindari situated 415 feet from the furlong stone 4-5 on Mount Road on the continuation of the straight line joining the survey stone next the northernmost stone on the north-western side of Survey No. 1 of 179 Government Farm and furlong stone 4-5 on Mount Road ; and thence from the said point in Survey No. 20 (2) south-eastwards 500 feet along the above line to the survey stone (above mentioned) and eastward along the northern boundary of Survey No. 1 of 179 Government Farm to the Municipal boundary stone No. 242 ; thence southward along the western boundary of Survey No. 3885 (channel) to the Municipal boundary stone No. 244 ; thence in a south-westerly direction to the Municipal boundary stone No. 246 ; thence across the river Adyar to the Municipal boundary stone No. 247.

South.—From the said point along the southern bank of the river Adyar to the sea.

East.—The sea.

MADRAS ACT No. IV OF 1928. ¹

[THE MADRAS CHRISTIAN MARRIAGES VALIDATION ACT, 1928.]

[27th March 1928.]

An Act to validate certain marriages solemnized by certain members of the American Baptist Telugu Mission, Nellore district.

Preamble. WHEREAS licences were granted by the Local Government to Messrs. Onukuri Nagayya, Gundham Guravayya and Puli-koory Joshua, all of the American Baptist Telugu Mission, Nellore district (hereinafter referred to as the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua respectively), under section 9 of the Indian Christian Marriage Act, 1872, on the dates specified against their names in the XV of 1872. second column of the schedule ;

AND WHEREAS the said licences were revoked by the said Government on the dates specified against their names in the third column of the schedule ;

AND WHEREAS after the date of the said revocation, the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua continued to solemnize marriages and to grant certificates of marriage as if the said licences had not been revoked ;

AND WHEREAS fresh licences have been granted to the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua under the said section 9 on the dates specified against their names in the fourth column of the schedule ;

AND WHEREAS it is doubtful whether the marriages solemnized by the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua and the certificates granted and the other acts done by them in virtue of the said revoked licences on and from the dates specified against their names in the third column of the schedule up to and including the dates specified against their names in the fourth column thereof are legally valid ;

AND WHEREAS there is no reason to doubt that the parties to the said marriages believed in good faith that the said Mr. Nagayya, the said Mr. Guravayya or the said Mr. Joshua, as the case may be, was legally entitled to act on his said revoked licence on the dates of their respective marriages ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 13th December 1927—Part IV, pages 146-147.

AND WHEREAS it is expedient that all such marriages, certificates and acts on and between the dates specified in the said third and fourth columns should be validated ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Madras Christian Mar- Short title.
riages Validation Act, 1928.

2. All marriages solemnized, all certificates granted and all acts done by the said Mr. Nagayya, the said Mr. Gura- Validation of
vayya and the said Mr. Joshua on and from the dates specified certain irre-
against their names in the third column of the schedule up gular marria-
to and including the dates specified against their names in ges, certifi-
the fourth column of the schedule which would be valid if the cates and
licences granted to them on the dates specified against their acts.
names in the second column of the schedule had not been
revoked shall be deemed to be as valid as if they had held
licences under section 9 of the Indian Christian Marriage
Act, 1872, on and between the dates specified in the said third
and fourth columns and no such marriage, certificate or act
shall be deemed to be invalid by reason only of the fact that
the said licences were revoked.

XV of 1872.

3. Certificates of marriages to which section 2 applies and register books and certified copies of true and duly authentic- Validation
ated extracts therefrom deposited in compliance with the of records of
the said
irregular
marriages.
provisions of the Indian Christian Marriage Act, 1872, shall, in so far as the register books and extracts relate to such marriages, be received as evidence of such marriages as if such marriages had been duly solemnized under the said Act.

XV of 1872.

THE SCHEDULE.

The name of the licensee.	The date on which the original licence was granted.	The date on which the licence mentioned in the second column was revoked.	The date on which a fresh licence was issued.
(1)	(2)	(3)	(4)
Onukuri Nagayya.	30th day of January 1907.	28th day of January 1925.	30th day of May 1927.
Gundham Gura- vayya.	18th day of November 1911.	Do.	22nd day of June 1927.
Pulikoory Joshua..	26th day of May 1921.	Do.	30th day of May 1927.

MADRAS ACT No. V OF 1928.¹

[THE JAGGAMPETA A AND D ESTATES IMPARTIBLE ESTATES
ACT, 1928.]

[19th June 1928.]

An Act to declare the Jaggampeta A and D Estates to be impartible within the meaning of the Madras Impartible Estates Act II of 1904.

Preamble,

WHEREAS it is expedient to declare that the Jaggampeta A and D Estates are impartible and that the Proprietors thereof cannot exercise unrestricted powers of alienation over the same ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title.

1. This Act may be called “The Jaggampeta A and D Estates Impartible Estates Act, 1928.”

Jaggampeta A and D Estates to be impartible within the meaning of the Madras Impartible Estates Act, 1904. Saving.

2. Notwithstanding any decision of Court, rule of law or enactment to the contrary, the Jaggampeta A and D Estates, in the district of East Godavari are hereby declared to be impartible estates within the meaning of the Madras Impartible Estates Act II of 1904, and shall, in the hands of their present owner as well as her heirs and successors, be subject to the provisions of that Act. Madras Act II of 1904.

3. This Act shall not affect any alienation made or debt incurred before the commencement of this Act.

MADRAS ACT No. VII OF 1928.²

[THE MAPPILLA WILLS ACT, 1928.]

[19th June 1928.]

An Act to define the Law relating to Wills by Mappillas.

Preamble

WHEREAS it is expedient to define the law relating to testamentary dispositions by Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 7th February 1928—Part IV, pages 8-10.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 8th November 1927—Part IV, p. 137.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Mappilla Wills Act, 1928. Short title.

2. (i) It shall come into force on the 1st day of January 1929. Commencement.

(ii) It extends to the whole of the Presidency of Madras. Extent.

(iii) It applies to testamentary dispositions by Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance in respect of property which, but for such testamentary disposition, would devolve in accordance with the provisions of the Mappilla Succession Act, 1918. Persons to whom and properties to which this Act is applicable.

Madras Act
I of 1918.

3. Testamentary dispositions to which this Act applies shall be governed by the Muhammadan Law relating to wills and not by the Malabar Wills Act, 1898. Testamentary dispositions by Mappillas to be governed by this Act and not by Madras Act V of 1898.

Madras Act
V of 1898.

THE ANNAMALAI UNIVERSITY ACT, 1928.

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MADRAS ACT No. I OF 1929. ¹

[THE ANNAMALAI UNIVERSITY ACT, 1928.]

[1st January 1929.]

An Act to establish and incorporate a Teaching and Residential University at Annamalainagar.

WHEREAS it is desirable to establish a Teaching and Residential University for the encouragement of higher education and research in the Tamil districts of the Presidency of Madras ;

AND WHEREAS the Hon'ble Diwan Bahadur Sir S. R. M. Annamalai Chettiyar has established and is maintaining Colleges at and near Chidambaram in which higher instruction is imparted in English, Tamil and Sanskrit studies ;

AND WHEREAS the said Sir Annamalai Chettiyar has agreed with the Local Government to hand over the said institutions together with all the properties attached there- and further to give a sum of twenty lakhs of rupees for purpose of establishing and maintaining at Annamalai- ar a Teaching and Residential University wherein he and heirs shall be entitled to certain powers and privileges ;

It is hereby enacted as follows :—

1. (1) This Act may be called The Annamalai University Short title and commencement. 1928.

(2) This section shall come into force at once. The of this Act shall come into force on such date or dates the ² [Provincial Government] may, by notification in the official Gazette], appoint ; and different dates may be so ointed for different provisions of this Act.

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

(a) ' Annamalainagar ' means the area described in Schedule ;

(b) ' Convocation ' means any meeting of the University for the conferring of degrees, diplomas or other distinctions ;

¹ For Statement of Objects and Reasons see *Fort St. George Gazette*, dated 28th August 1928—Part IV, pp. 49-51.

² These words were substitute for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws Order, 1937.

³ These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

(c) 'Founder' means the Hon'ble Diwan Bahadur Sir S. R. M. Annamalai Chettiyar, and after him his son, Mr. M. A. Muthiah Chettiyar, and for all time after the lives of the said two persons, in respect of every vacancy, any adult male member chosen by the Chancellor from among the members of the said Sir Annamalai Chettiyar's family consisting of his other sons and his descendants tracing their descent through males, and if no such member exists or if one such exists and he does not consent to act as Founder, or if no such member is competent in the opinion of the Chancellor to act as Founder, then and until such a competent member comes into existence and is willing to act, or one who was not competent becomes competent, an adult male member of the said family chosen by the Chancellor from among the said Sir Annamalai Chettiyar's descendants tracing their descent from him through a female or females.

Provided that in any case of a person who traces his descent from the said Sir Annamalai Chettiyar through a female or females, such person shall hold office only till a member of the said Sir Annamalai Chettiyar's family claiming through males is chosen by the Chancellor.

For the purpose of this definition (i) any person adopted into the said family and his descendants shall be deemed to be members of the family, and (ii) no one born in the said family but adopted out of it shall be deemed to be a member thereof except Ramanathan Chettiyar, son of the said Sir Annamalai Chettiyar, but given in adoption to his brother Diwan Bahadur Ramaswami Chettiyar, deceased and those tracing descent from the said Ramanathan Chettiyar.

(d) 'Hostel' means a place of residence for students of the University maintained or recognized by it in accordance with the provisions of this Act ;

(e) 'Prescribed' means prescribed by this Act or the statutes or the regulations framed thereunder ;

(f) 'Teachers' means Professors, Readers, Lecturers, Tutors and such other persons as give instruction to or take part in the training of, the students of the University in the prescribed manner ; and

(g) 'University' means the Annamalai University at Annamalainagar constituted under this Act.

3. The purposes and powers of the University shall be the following, namely :—

Purposes
and powers
of the
University;

- (a) to provide—
 - (i) for instruction in such branches of learning as the University may think fit including professional studies and technology and
 - (ii) for research and the advancement and dissemination of knowledge ;
- (b) to grant and confer degrees and other academic distinctions to and on persons who shall have
 - (i) pursued a course of study in the University and shall have passed the examinations of the University in the manner prescribed or
 - (ii) carried on research under conditions prescribed ;
- (c) to supervise and control the residence and discipline of the students of the University ;
- (d) to establish and maintain hostels, and under prescribed conditions, to recognize hostels not so established or maintained, and to withdraw such recognition ;
- (e) to create such posts as are required for the University and appoint persons thereto ;
- (f) to provide, in the manner prescribed, lectures and instruction for persons who are not pursuing a course of study in the University, and to grant diplomas to them ;
- (g) to confer honorary or *ad eundem* degrees or other distinctions in the manner prescribed ;
- (h) to institute and award fellowships, including travelling fellowships, scholarships, medals and prizes in the manner prescribed ;
- (i) to demand and receive such fees and other charges as may be prescribed ;
- (j) to co-operate with other Universities and authorities for promoting the purposes of this Act ;
- (k) to enter into agreements with other bodies or persons for the purpose of promoting the purposes of this Act including the assuming of the management of any institution under them and the taking over of its properties and liabilities ; and
- (l) to do such other acts and things, whether incidental to the purposes and powers aforesaid or not but not inconsistent therewith, as may be requisite to further the purposes and objects of this Act.

Territorial
jurisdiction
of Univer-
sity.

4. Save as otherwise provided in this Act, the territorial jurisdiction of the University shall not extend beyond a radius of ten miles from its Convocation Hall which shall be situated in Annamalainagar. Notwithstanding any provision in any other law for the time being in force, no educational institution beyond that limit shall form part of or be recognized by or admitted to the privileges of the University and no such institution within that limit shall similarly form part of or be recognized by or seek admission to any privileges of any other University incorporated by law in British India, and any such recognition granted by any such other University to any such institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act :

Provided that, if the ¹ [Provincial Government] so order, nothing in this section shall apply to any institution established or maintained by the University for imparting instruction in agriculture or other technological studies.

University
open to all
classes and
creeds.

5. No person shall be excluded from membership of any of the authorities of the University, or from admission to any degree or course of study, on the sole ground of sex, race, creed, class, caste or political belief, and it shall not be lawful for the University to adopt or impose, on any person, any test whatsoever relating to religious or political belief or profession, in order to entitle him to be admitted thereto as a student or to hold any office or appointment therein or to graduate thereat or to enjoy or exercise any privilege thereof, except where in respect of any particular benefaction accepted by the University such test is made a condition thereof.

Admission
to the
University.

6. The University may hold examinations for regulating admission thereto or may with the previous sanction of the ² [Provincial Government] recognize examinations of other Universities or bodies as suitable for the purpose ; but it shall not maintain classes for the purpose of preparing students for such admission.

Residence of
students.

7. Every person pursuing a course of studies for any examination except the entrance examination and for any degree or diploma of the University except those referred to in clauses (f) and (g) of section 3 shall reside in a hostel or lodgings maintained or recognized by the University.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Governor-General in Council" by Schedule II, *ibid.*

8. The following shall be the officers of the University, namely :—

Officers of
the Univer-
sity.

- (1) The Chancellor,
- (2) The Founder,
- (3) The Pro-Chancellor,
- (4) The Vice-Chancellor,
- (5) The Registrar,
- (6) The Deans of Faculties, and
- (7) Such other persons as may be declared by the Statutes to be officers of the University.

9. (1) The ¹[Governor of Madras] shall be the Chancellor of the University. He shall by virtue of his office be the head of the University and shall, when present, preside at meetings of the Senate and at Convocations.

The Chancel-
lor. His
powers.

(2) The Chancellor shall exercise such powers as may be conferred on him under the provisions of this Act.

(3) The Chancellor shall be entitled to delegate all or any of his functions to the Pro-Chancellor.

10. (1) The Founder shall be the Pro-Chancellor of the University.

The Pro-
Chancellor.
His powers.

(2) The Pro-Chancellor shall in the absence of the Chancellor preside at meetings of the Senate and at Convocations and shall also exercise such other powers as may be conferred on him under the provisions of this Act.

(3) If for any reason the office of the Pro-Chancellor is vacant, the functions of the said office shall be carried on by the Chancellor or by any person authorized by him to do so.

11. (1) The Founder shall hold office for life unless otherwise expressly provided for in this Act.

The Found-
er. His
powers.

(2) The Founder may require the Vice-Chancellor to furnish him with information and all papers or copies thereof relating to any matter concerning the University. The Founder may also request further consideration of the matter by the authorities or officers concerned or place his views thereon before the Chancellor for his consideration, or may do both.

(3) The Founder shall also exercise such other privileges as are conferred on him under the provisions of this Act.

¹ These words were substituted for the words "Governor of Fort St. George" by Schedule, II to the Government of India (Adaptation of Indian Laws) Order, 1937.

The Vice-Chancellor.

12. (1) The Vice-Chancellor shall be appointed by the Chancellor from a panel of three persons recommended by the Founder. He shall, in the absence of special orders by the Chancellor prescribing a shorter period, hold office for a term of three years from the date of the notification of his appointment in the ¹ [Official Gazette].

(2) The Vice-Chancellor may either be an honorary officer or be paid such salary as may be prescribed.

(3) When any vacancy occurs in the office of Vice-Chancellor, the Syndicate shall, as soon as possible, appoint one of its own members to exercise the powers and perform the duties of the Vice-Chancellor during the continuance of the vacancy.

Powers and duties of the Vice-Chancellor.

13. (1) The Vice-Chancellor shall be the principal executive officer of the University and shall, in the absence of the Chancellor and Pro-Chancellor, preside at meetings of the Senate and at Convocations. He shall ex officio be a member and the Chairman of the Academic Council and of the Syndicate.

(2) The Vice-Chancellor shall in the manner prescribed convene meetings of the Senate, the Academic Council and the Syndicate.

(3) In any emergency which in the opinion of the Vice-Chancellor requires that immediate action should be taken, he may take such action and shall immediately thereafter report his action to the authority or officer which or who would have ordinarily dealt with the matter and such authority or officer may confirm, alter or quash such action.

(4) The Vice-Chancellor shall have the power to appoint the clerical staff and other servants of the University.

(5) The Vice-Chancellor shall exercise such other powers as may be prescribed.

Authorities of the University.

14. The following shall be the authorities of the University, namely :—

- (1) The Senate,
- (2) The Academic Council,
- (3) The Faculties,
- (4) The Boards of Studies,
- (5) The Syndicate,
- ² [(6) The Finance Committee (for the period fixed under this Act)],
- (7) The Board of Selection,
- (8) Such other bodies as may be declared by the Statutes to be authorities of the University.

¹ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This item has ceased to be part of this Act—see footnote 1 on page 206 *infra*.

15. The Senate shall consist of the following persons, Constitution of the Senate.
namely :—

CLASS I—EX OFFICIO MEMBERS.

- (1) The Chancellor,
- (2) The Pro-Chancellor,
- (3) The Vice-Chancellor,
- (4) The Director of Public Instruction, Madras.
- (5) The Chairman of the Chidambaram Municipal Council,
- (6) The President of the District Board, South Arcot,
- (7) Heads of departments of studies in the University,
- (8) The Vice-Chancellors of the Madras and Andhra Universities,
- (9) The Collector of South Arcot,
- (10) The Advocate-General, Madras,
- (11) Members of the Syndicate who are not otherwise members of the Senate,
- (12) The Diwan of Pudukkottai.

CLASS II—LIFE MEMBERS.

- (1) Ex-Vice-Chancellors of the University.
- (2) All persons who make a donation of not less than twenty-five thousand rupees to and for all or any of the purposes of the University, and agree to such terms as the Syndicate may impose for the management of the said amount. In case the donor is a corporate body or a firm or a joint family or an association, the individual who shall be entitled to this life membership shall be determined in the manner prescribed.

CLASS III—OTHER MEMBERS.

- (1) Twelve members elected from among themselves by graduates of the University registered in the manner prescribed, according to the principle of proportional representation by means of the single transferable vote :

Provided that during the first ten years after this section comes into force, the twelve members shall be elected according to the same principle by

- (i) the graduates of the University,
- (ii) the graduates of the University of Madras from the Sri Minakshi College at Chidambaram, and

- (iii) the graduates of not less than seven years' standing of the University of Madras, other than those from the Sri Minakshi College at Chidambaram residing in the manner prescribed in the districts of Madras, Chingleput, North Arcot, South Arcot, Salem, Coimbatore, the Nilgiris, Tanjore, Trichinopoly, Madura, Ramnad and Tinnevely and in the State of Pudukkottai.
- (2) Four members elected by the Academic Council from among its members according to the principle of proportional representation by means of the single transferable vote,
- (3) ¹ [Two] members elected by the Madras Legislative Council from among its members according to the principle of proportional representation by means of the single transferable vote ² [and three members elected by the Madras Legislative Assembly from among its members according to the same principle],
- (4) Such number of members not exceeding six, as the Chancellor may fix, to be elected by the donors of sums of not less than ten thousand rupees each to and for all or any of the purposes of the University and agree to such terms as the Syndicate may impose for the management of the said amounts,
- (5) Eight members nominated by the Chancellor at least three of whom shall be representatives of depressed, backward or minority classes not otherwise adequately represented,
- (6) Four members nominated by the Founder, Provided that, if the office of the Founder is vacant on the date on which the nomination is to be made, and there is no likelihood in the opinion of the Chancellor of the vacancy being filled up within six months from that date, the Chancellor shall nominate the said four members,
- (7) One member elected by the members of the District Board, South Arcot district, from among themselves,
- (8) One member elected by the Municipal Councillors of the South Arcot district other than the Municipal Councillors of Chidambaram from among themselves,
- (9) One member elected by the Municipal Councillors of Chidambaram from among themselves,

¹ This word was substituted for the word "five" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were inserted by *ibid.*

- (10) One member elected by the members of the Sri Nandanar Kalvi Khazhagam, Chidambaram, from among themselves,
- (11) One member elected by the general body of the Muhammadan Educational Association of Southern India from among its members,
- (12) One member elected from among themselves by those engaged in teaching in any manner, on the staff of the Sanskrit College, Tiruvadi, the Rameswaram Sanskrit Patasala, Madura, and the Sri Minakshi Sanskrit College, Chidambaram,
- (13) One member elected from among themselves by the members of the Madura Tamil Sangam,
- (14) One member elected from among themselves by the members of the Tanjore Karanthai Tamil Sangam and the teaching staff of the Sri Minakshi Tamil College, Chidambaram,
- (15) One member elected by the Southern India Chamber of Commerce and one by the Madras Chamber of Commerce,
- (16) One member elected by the Madras Landholders' Association.

16. The Senate shall be the supreme governing body of the University and shall have the following powers, namely :— Powers and duties of the Senate.

- (1) to make statutes and amend or repeal the same,
- (2) to consider and pass resolutions on the annual reports and the annual accounts which resolutions shall be communicated to the Syndicate who shall take action in accordance therewith,
- (3) to consider and pass resolutions on the annual financial estimates which resolutions shall, after the period of tenure of the Finance Committee, be communicated to the Syndicate who shall take action in accordance therewith,
- (4) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the statutes, and
- (5) to do all acts and things necessary to give effect to the provisions of this Act.

17. The Academic Council shall consist of the following persons, namely :— Constitution of the Academic Council.

CLASS I—EX-OFFICIO MEMBERS.

- (1) The Vice-Chancellor,
- (2) The Director of Public Instruction, Madras.
- (3) The Professors and Readers of the University,
- (4) The Chairmen of the Boards of Studies,
- (5) The Members of the Syndicate who are not otherwise members of the Academic Council.

CLASS II—OTHER MEMBERS.

- (1) Ten members, of whom not less than five shall be teachers other than Professors and Readers, elected by such teachers,
- (2) Five members elected by the Senate from among its members, provided that no one who is already a member of the Academic Council shall be eligible for election under this item.

Powers and duties of the Academic Council.

18. The Academic Council shall have the control and regulation of residence, teaching and examinations in the University and the maintenance of the standards thereof, shall have the following powers and shall perform the following duties, namely :—

- (a) to make proposals to the Syndicate for the institution of professorships, readerships, lectureships, or other teaching posts,
- (b) to make regulations for purposes hereinafter specified,
- (c) to make recommendations to the Syndicate for the recognition of teachers qualified to give instruction in hostels not maintained by the University,
- (d) to formulate, modify or revise, subject to the control of the Senate, schemes for the constitution or reconstitution of faculties and departments of studies, and
- (e) to do such other things and perform such other duties as may be prescribed by the statutes.

The Faculties.

19. (1) The University shall include Faculties of Arts, Science, Technology and Oriental Studies and such other Faculties as may be prescribed and each such Faculty shall be constituted in the manner prescribed.

(2) Each Faculty shall have a Dean. He shall be elected by the Faculty from among the heads of departments of the Faculty and shall be responsible for the due observance of the statutes and regulations relating to the Faculty. He shall hold office for such period and subject to such conditions as may be prescribed by the statutes.

(3) Each Faculty shall comprise such departments of study as may be prescribed by the regulations and shall, subject to the control of the Academic Council, have charge of the teaching, courses of study and research work in such departments. The head of every department of study shall be the Professor of that department, or if there is no Professor, the Reader. If there is more than one Professor or more than one Reader in a department, as the case may be, the Vice-Chancellor shall appoint such Professor or Reader

as he thinks fit to be the head of the department. The head of the department shall be responsible to the Dean for the organization of the teaching in that department.

20. The number, constitution and duties of the Boards of Studies shall be such as may be prescribed. Boards of Studies.

21. The Syndicate shall consist of the following persons, namely :— Constitution of the Syndicate.

CLASS I—EX-OFFICIO MEMBERS.

- (1) The Vice-Chancellor,
- (2) The Director of Public Instruction, Madras.
- (3) The Deans of Faculties.

CLASS II—OTHER MEMBERS.

- (1) Three members elected by the Senate from among its members,
- (2) One member elected by the Academic Council from among its members,
- (3) Two members nominated by the Chancellor,
- (4) Two members nominated by the Founder, provided that, if the office of the Founder is vacant on the date on which the nomination is to be made and there is in the opinion of the Chancellor no likelihood of the vacancy being filled up within one month from that date the Chancellor shall nominate the said two members.

22. The Syndicate shall have the following powers and perform the following duties, namely :— Powers and duties of the Syndicate.

- (a) to control and administer the property and the funds of the University,
- (b) to direct the form, custody and use of the common seal of the University,
- (c) to suspend or dismiss the Registrar, the teachers, the clerical staff and other servants of the University for sufficient cause and to define their duties and the conditions of their service,
- (d) to accept on behalf of the University bequests, donations and transfers of any movable or immovable properties or the management thereof,
- (e) to arrange for the holding of and publish the results of the University examinations and in the prescribed manner to appoint examiners and cancel their appointment,
- (f) to regulate and determine all matters concerning the University in accordance with this Act and the statutes and regulations,

- (g) to institute, subject to the control of the Senate, and abolish or suspend on the advice of the Academic Council, professorships and other teaching posts,
- (h) to refer any matter to the Academic Council, a Faculty or a Board of Studies for consideration and report,
- (i) to draft such statutes and regulations as may from time to time be necessary and to submit them to the Senate and the Academic Council respectively for consideration,
- (j) to dispense, subject to statutes made in this behalf, with a strict compliance with the regulations of the University in special cases,
- (k) to make standing orders in such manner and on such matters as may be prescribed, and
- (l) to do such other things and perform such other duties as may be prescribed.

Constitution of the Finance Committee. ¹ 23. The Finance Committee shall consist of the following persons, namely :—

- (1) The Secretary to the Government of Madras in charge of Finance,
- (2) The Founder, and, in case the office is vacant, any person nominated by the Chancellor to do the duties of the Founder under this section, during the continuance of the vacancy,
- (3) The Vice-Chancellor,
- (4) One member elected by the Senate from among its members, provided that no one who is already a member of the Syndicate shall be eligible for election under this clause.]

Powers and duties of the Finance Committee. ¹ 24. (1) The Syndicate shall, in the manner prescribed, frame the financial estimates of the University and place the same before the Finance Committee.

(2) The Finance Committee shall then scrutinize the said estimates and shall be entitled to make such modifications therein as it considers necessary.

(3) The said estimates as modified by the Finance Committee shall then be placed before the Senate which may assent or refuse its assent to the same or may omit or alter any of the items therein.

(4) (i) (a) All modifications made by the Senate in the said estimates which have not the effect of increasing the income,

(b) and all proposals, involving any expenditure, originated by the Senate apart from such estimates, shall be placed before the Finance Committee for its consideration.

¹ Sections 23 and 24 have ceased to be part of this Act—see footnote 1 on page 206 *infra*.

(ii) All points of difference between the said Committee and the Senate in respect of the matters specified in clause (i) shall be placed before the Chancellor and his decision thereon shall be final.]

25. (1) The Board of Selection shall consist of the following persons, namely :—

The Board of Selection—
Its powers.

- (a) One member nominated by the Chancellor,
- (b) The Founder and, in case the office is vacant, any person nominated by the Chancellor to do the duty of the Founder under this section during the continuance of the vacancy,
- (c) The Vice-Chancellor,
- (d) One member elected by the Syndicate from among its members, and
- (e) One member elected by the Senate from among its members.

(2) The Board of Selection shall have the power to appoint the Teachers and the Registrar of the University.

26. (1) The annual accounts of the University shall be prepared by the Syndicate in the manner prescribed and shall be submitted to such examination and audit as the ¹ [Provincial Government] may direct.

Annual accounts.

(2) The accounts when so examined and audited shall be published by the Syndicate in the ² [Official Gazette] and copies thereof shall, together with copies of the report of such examination and audit, be submitted to the Senate, the Finance Committee and the ¹ [Provincial Government].

27. The Chancellor, Pro-Chancellor and Vice-Chancellor of the University and the members of the Senate, the Academic Council and the Syndicate shall constitute a body corporate by the name of the Annamalai University of Annamalainagar and shall have perpetual succession and a common seal and shall sue and be used by that name.

The University.

³ [28. (1) The Provincial Government shall have the Visitation right to cause an inspection or inquiry to be made in respect of any matter, institution or property connected with the University by such person or persons as it may appoint in that behalf.

The Provincial Government shall in every case give notice to the University of its intention to cause such inspection or inquiry to be made and the University shall be entitled to be represented thereat.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ This section was substituted for the original section 28 by Schedule II, *ibid.*

(2) The Provincial Government shall communicate to the Senate and to the Syndicate its views with reference to the results of such inspection or inquiry and shall, after ascertaining the opinion of the Senate and the Syndicate thereon, advise the University upon the action to be taken.

(3) The Syndicate shall report to the Provincial Government the action, if any, which is proposed to be taken, or has been taken, upon the results of inspection or inquiry.

Such report shall be accompanied by the opinion of the Senate thereon and shall be submitted within such time as the Provincial Government may direct.

(4) Where the Senate or Syndicate do not within a reasonable time take action to the satisfaction of the Provincial Government, the Provincial Government may, after considering any explanation furnished or representation made by the Senate or the Syndicate, issue such directions as it may think fit and the Senate and the Syndicate shall comply with those directions.

In the event of the Senate or the Syndicate not complying with those directions within such time as may be fixed in that behalf by the Provincial Government, the Provincial Government shall have power to appoint some person or body to carry them out and make such orders as to the expenses thereof as he deems fit to make.]

Statutes.

29. Subject to the provisions of this Act, the statutes may provide for all or any of the following, namely :—

- (a) the constitution, powers and duties of the authorities of the University ;
- (b) the establishment and maintenance of hostels by the University ;
- (c) the conditions of recognition of hostels not maintained by the University ;
- (d) the powers of the officers of the University and in the case of officers other than the Chancellor and Pro-Chancellor their duties ;
- (e) the conditions of service of the Vice-Chancellor and the Registrar ;
- (f) the holding of convocations to confer degrees ;
- (g) the conferment of honorary and *ad eundem* degrees and other distinctions ;
- (h) the institution and award of fellowships, including travelling fellowships, scholarships, medals and prizes ;
- (i) the classification, emoluments and mode of appointment of the teachers of the University ;

- (j) the institution of a provident fund for the benefit of the officers of the University (other than the Chancellor, the Founder, the Pro-Chancellor and the Vice-Chancellor), its teachers, clerical staff and servants ;
- (k) the maintenance of a register of registered graduates ;
- (l) all matters which under this Act may be prescribed by the statutes ; and
- (m) all other matters and things save those in respect of which regulations can be made, which are within the purposes of this Act whether incidental to those specified above or not. .

30. (1) The Senate may take into consideration the draft of any statute either of its own motion or on the submission thereof by the Syndicate. Statutes how made.

(2) If the proposed statute would affect any officer or authority of the University—

- (a) where the Senate acts on its own motion the opinion of the Syndicate and of the officer or authority affected shall be taken into consideration by the Senate before the statute is passed ; and
- (b) where the Senate acts on the submission of a draft thereto by the Syndicate, the Senate shall not proceed to consider the draft unless the Syndicate has given an opportunity to the officer or authority affected to express his or its opinion thereon and places such opinion, if any, before the Senate for its consideration.

(3) When any statute has been passed by the Senate or a draft proposed by the Syndicate has been rejected, the statute or the draft, as the case may be, shall be submitted to the Chancellor together with the opinions, if any, referred to in sub-section (2) and the Chancellor may refer the statute or draft back to the Senate for further consideration.

(4) A statute passed by the Senate shall have no validity until it has been assented to by the Chancellor.

31. Subject to the provisions of this Act and the statutes, the regulations may provide for all or any of the following matters, namely :—

- (a) the admission of students to and the levy of fees therefor by the University ;
- (b) the conditions under which any person may be admitted to the examinations, degrees and diplomas of the University ;

- (c) the conditions of residence of the persons referred to in section 7 and the levy of fees for residence and tutorial instruction in hostels maintained by the University ;
- (d) the number and qualifications of professors, readers, lecturers and other teachers in the University ;
- (e) the fees to be charged for courses of teaching given by teachers of the University, for tutorial and supplementary instruction given by the University, for admission to the examinations, degrees and diplomas of the University and for the registration of graduates ;
- (f) the conditions subject to which persons may be recognized as qualified to give instruction in colleges, hostels and lodgings not maintained by the University ;
- (g) the appointment and duties of examiners and their emoluments ;
- (h) the conduct of examinations ;
- (i) all other matters which by this Act or by the statutes may be provided by the regulations ; and
- (j) all matters incidental to those specified in clauses (a) to (i).

Regulations
how made.

32. Regulations may be made by the Academic Council on its own motion or on the submission of a draft to it by the Syndicate, provided that in the former case before a regulation is passed the opinion of the Syndicate thereon shall be obtained and taken into consideration by the Academic Council.

All regulations shall have effect from such date as the Academic Council may appoint in that behalf ; but every regulation so made shall be submitted as soon as may be to the Senate who shall consider it at its next meeting or at any other meeting to which it may adjourn the consideration thereof. The Senate shall have power, by resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or modify any such regulation.

Period of
office.

33. (1) Save as otherwise provided, the authorities and other bodies connected with the University shall be reconstituted every three years, and a member of every such authority or body shall except in the case of *ex-officio* or life members hold office as member thereof from the date of his election or nomination thereto up to the date of the next reconstitution.

(2) Any vacancy in the said membership occurring before the said reconstitution, shall be filled up as soon as conveniently may be by the person or body who appointed or elected the member whose place has become vacant and the person so appointed or elected shall be a member of such authority or body only for the residue of the term for which the person whose place he has filled would have been a member.

(3) Any person nominated or elected in his capacity as a member of a particular body or the holder of a particular appointment shall if he ceases to be a member of that body or the holder of that appointment as the case may be, for a period of more than three months or if he goes on leave for a period of not less than six months cease to be a member of the authority or the body of the University concerned.

34. No act or proceeding of any authority or other body of the University shall be deemed to be invalid by reason only of some defect in the constitution of the University or of the said authority or body, or of the existence of any vacancy in the said authority or body, or of the invalidity of any election connected therewith, or of the disqualification of any member thereof at the time of or subsequent to his election or nomination thereto.

Validity of proceedings of the University bodies.

35. No person shall be qualified for election or nomination as a member of any of the authorities of the University or of any body connected therewith, or for appointment as an officer thereof, if at the time of election, nomination or appointment, he

Disqualification for membership.

(a) is of unsound mind, deaf-mute or a leper, or

(b) is an uncertificated bankrupt or undischarged insolvent, or

(c) has been convicted by a court of law of an offence involving moral delinquency.

In case of dispute or doubt, the Chancellor shall determine whether a person is disqualified under this section and his decision shall be final.

36. (1) The Senate may remove any person from membership of any of the authorities of the University or of any body connected therewith or from any of the offices specified in items (5), (6) and (7) of section 8—

Removal from membership of the University.

(a) if he has been convicted by a court of law of what in the opinion of the Senate is an offence involving moral delinquency,

- (b) if he becomes of unsound mind or a deaf-mute or a leper, or
 (c) if he applies to be adjudicated or is adjudicated a bankrupt or insolvent.

(2) The Senate may for the reason specified in clause (a) of sub-section (1) withdraw any degree or diploma or any other distinction conferred or granted by the University.

(3) The Senate shall not take any action under clause (a) of sub-section (1) or under sub-section (2) except on the recommendation of not less than two-thirds of the members of the Syndicate.

Disputes as to election, nomination or membership of University authority or body.

37. If any dispute arises whether any person has been duly elected or nominated as or is entitled to be a member of any authority or body of the University, the question shall be referred to the Chancellor whose decision thereon shall be final.

Constitution of committees.

38. All the authorities of the University shall have power to appoint committees and to delegate to them such of their powers as they deem fit ; such committees may include persons who are not members of the authority concerned :

Provided that the number of persons so included in any committee shall not exceed one-fifth of the total number of that committee.

Provident Fund.

39. Where any provident fund has been instituted by the University for the benefit of its officers, teachers, clerical staff or servants, the ¹ [Provincial Government] may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government Provident Fund. XIX of 1925.

Transfer of the colleges and of their properties to the University.

40. On the commencement of this Act, the institutions known as the Sri Minakshi College, the Sri Minakshi Tamil College and the Sri Minakshi Sanskrit College situated at Chidambaram and being maintained by Diwan Bahadur Sir S. R. M. Annamalai Chettiyar shall cease to exist as separate entities and shall become part of the University and all rights, powers and privileges of the said institutions and all property movable and immovable thereof shall vest in the University and shall be applied to the objects and purposes for which the University is incorporated.

¹ These words were substituted for the words " Governor-General in Council " by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

41. (i) The University shall have a fund called the Permanent Endowment Fund which it shall invest and keep invested in securities issued or guaranteed by the ¹ [Central Government] or by ² [Provincial Government]s in British India. Permanent Endowment Fund.

(ii) The said Permanent Endowment Fund shall consist of—

- (a) the sum of twenty lakhs of rupees given by the Founder, the Honourable Diwan Bahadur Sir S. R. M. Annamalai Chettiyar ;
- (b) the sum of twenty-seven lakhs of rupees given to it by the ² [Provincial Government] ; and
- (c) any contributions to this fund made by the ² [Provincial Government], the ¹ [Central Government], any local or other public body, the Founder or others.

42. The University shall also have a fund called the General Fund which shall consist of— General Fund.

- (a) fees and income from endowments including the Permanent Endowment Fund ; and
- (b) any contributions made to this fund by the ² [Provincial Government], the ¹ [Central Government], any local or other public body, the Founder or others.

43. The ² [Provincial Government]—

- (1) shall contribute to the general fund annually a sum of one and a half lakhs of rupees, and
- (2) subject to such conditions as may be agreed upon between them and the University
 - (a) shall give for the buildings and equipment of the University a sum of seven and a half lakhs of rupees, and
 - (b) may contribute, from time to time, such further sums as they deem fit to contribute to the said fund or towards such buildings or equipment.

Contribution
by Govern-
ment to the
University.

44. Notwithstanding anything contained in this Act or the regulations any student of the University who was pursuing a course of study for any examination of the University of Madras shall be permitted to complete that course and the University shall hold or arrange with the University of Madras for holding for such students examinations in accordance with the curricula of studies of that University for such Completion of Madras University courses.

¹ These words were substituted for the words " Government of India " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " Local Government " by *ibid.*

period as may be prescribed and notwithstanding anything contained in the Madras University Act, 1923, or the Statutes, Ordinances and Regulations thereunder, such students may be admitted to the appropriate examinations of that University.

Transitory provisions.

45. (1) At any time after the passing of this Act the Vice-Chancellor may with the previous approval of the Chancellor, take such action consistent as far as may be with the provisions of this Act and the statutes as he may think necessary for the purpose of bringing the University into being, and for that purpose may exercise any power which by this Act or the statutes is to be conferred on any officer or authority of the University.

(2) At any time after the passing of this Act and until such time as the authorities of the University shall have been duly constituted, the Registrar and the teachers of the University shall be appointed by the Chancellor after considering the recommendations of a committee consisting of the Pro-Chancellor, the Vice-Chancellor, and such other person or persons, if any, as the Chancellor thinks fit to associate with them.

(3) Any appointment made under sub-section (2) shall be for such period and on such conditions as the appointing authority thinks fit : provided that no such appointment shall be made until financial provision has been made therefor.

(4) The first statutes and regulations shall be made by a committee consisting of the Vice-Chancellor as Chairman, and two or more persons nominated thereto by the Chancellor and shall come into force after being approved by the Chancellor, on such date or dates as the Chancellor may appoint in that behalf.

(5) The salary, if any, of the first Vice-Chancellor shall be fixed by the Chancellor.

Removal of difficulties at the commencement of the Act.

46. The Chancellor shall have power to take any action necessary to remove any difficulty that may arise in first giving effect to the provisions of this Act.

Duration of certain sections of the Act.

¹[47. This section, item (6) of section 14, and sections 23 and 24 shall cease to be part of this Act on the termination of ten years from the date on which section 23 comes into force.]

¹ Section 47, item (6) of section 14 and sections 23 and 24 have ceased to be part of this Act, as ten years have elapsed from 15th May 1929, the date on which section 23 came into force—*vide* Notification No. 125 of the Education Department at page 258 of Part I-B of the *Fort St. George Gazette*, dated 7th May 1929.

SCHEDULE

The whole of the Revenue village of Tiruvakkulam and portion of the Revenue village of C. Kottangudi and Resurvey No. 102 of the Revenue village of Usuppur in the Chidambaram taluk in the South Arcot district, bounded on the north by the Natarajapuram road commencing from the South Indian Railway level crossing situated just to the east of the Chidambaram Municipal toll-gate on the east and south by the Uppanar and on the west by the South Indian Railway line and lands belonging to the South Indian Railway Company, Limited ; and Resurvey Nos. 65 to 68 and 105 to 144 of the abovementioned Revenue village of Usuppur.

MADRAS ACT No. II OF 1929.¹

[THE INDIAN FISHERIES (MADRAS AMENDMENT) ACT, 1927.]

[1st January 1929.]

An Act to amend the Indian Fisheries Act, 1897, in its application to the Presidency of Madras.

IV of 1897. WHEREAS it is expedient to amend the Indian Fisheries Act, 1897, in its application to the Presidency of Madras for the purposes hereinafter appearing ; Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Fisheries (Madras Amendment) Act, 1927. Short title and extent.

(2) It extends to the whole of the Presidency of Madras.

IV of 1897. 2. In sub-section (3) of section 6 of the Indian Fisheries Act, 1897 (hereinafter referred to as the said Act)— Amendment of section 6, Act IV of 1897.

(i) after the words “ prohibit or regulate ” the words “ either permanently or for a time or for specified seasons only ” shall be inserted, and

(ii) for clause (c) the following clause shall be substituted, namely :—

“ (c) the dimension and kind of the contrivances to be used for taking fish generally or any specified kind of fish and the modes of using such contrivances.”

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 9th August 1927—Part IV, pages 70–71.

Amendment
of section 6,
Act IV of
1897.

3. For sub-section (4) of section 6 of the said Act, the following sub-section shall be substituted, namely :—

“(4) Such rules may also prohibit all fishing in any specified water except under a lease or licence granted by Government and in accordance with such conditions as may be specified in such lease or licence :

Provided that no rule shall be made under this sub-section to prohibit sea fishery other than pearl fishery or chank fishery unless, after previous publication under sub-section (6) of this section, it has been laid in draft before ¹[both the Chambers of the Provincial Legislature], and has been approved by a resolution ²[of both those Chambers] either with or without modification or addition ; but upon such approval being given the rule may be issued in the form in which it has been so approved.”

Addition of
new section 8
to Act IV of
1897.

4. After section 7 of the said Act, the following section shall be added, namely :—

Recovery of
rents, fees
and other
moneys
payable to
Government.

“8. All rents, fees and other moneys payable to Government on account of fishery leases and licences granted by them may be recovered in like manner as if they were arrears of land revenue.”

MADRAS ACT No. III OF 1929.³

[THE JAINA SUCCESSION ACT, 1928.]

[5th March 1929.]

An Act to amend and define the Law of Intestate succession among Jainas governed by the Aliyasantana Law of Inheritance.

Preamble.

WHEREAS it is expedient to amend and define the law relating to intestate succession among Jainas governed by the Aliyasantana Law of Inheritance and whereas the previous sanction of the Governor-General has been obtained under section 80-A of the Government of India Act ; It is enacted as follows :—

Short title.

1. This Act may be called the Jaina Succession Act, 1928.

Local extent.

2. It extends to the whole of the Presidency of Madras.

¹ These words were substituted for the words “ the Legislative Council ” by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words “ of the Legislative Council ” by *ibid.*

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 20th September 1927—Part IV, pages 88-89.

3. It applies to Jains domiciled in the Presidency of Madras who are governed by the Aliyasantana Law of Inheritance and also, in respect of immovable property situated within the Presidency of Madras, to Jains domiciled outside the said Presidency who are so governed.

to whom the Act is applicable.

4. A person is deemed to die intestate in respect of all property, of which he has not made a testamentary disposition which is capable of taking effect.

Definition of intestate property.

Explanation.—Property in this section does not include tarwad (kutumba) property, unless the person dying intestate was exclusively entitled to it.

5. Such property shall, notwithstanding any law or custom to the contrary, devolve upon his heirs in the order and according to the rules of the Mitakshara Law of Inheritance, under the Hindu Law as administered in the Presidency of Madras. Such property, on devolution, shall be subject to all the incidents of the Mitakshara Law of Inheritance as administered in the Presidency of Madras.

Application of Mitakshara Law of Inheritance to Jains.

6. Notwithstanding any law to the contrary, all forms of marriages among such Jains recognized by custom as valid shall be legal and valid for the purposes of this Act.

Validation of customary marriages among Jains.

MADRAS ACT No. IV OF 1929.¹

[THE ANDHRA UNIVERSITY (AMENDMENT) ACT, 1929.]

[4th June 1929.]

An Act to amend the Andhra University Act, 1925.

WHEREAS it is expedient to amend the Andhra University Act, 1925; It is hereby enacted as follows :—

Preamble.

1. (1) This Act may be called the Andhra University (Amendment) Act, 1929.

Short title and commencement.

(2) It shall come into force on such date as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], appoint.

2. In sub-section (2) of section 3 of the Andhra University Act, 1925, for the word 'Bezawada,' the word 'Vizagapatam' shall be substituted.

Amendment of section 3 of Madras Act II of 1926.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 14th February 1928—Part IV, pages 11–12.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

210 *Andhra University (Second Amendment)* [1929 : Mad. Act VI
Port Trust (Amendment) [1929 : Mad. Act VII

MADRAS ACT No. VI OF 1929.¹

[THE ANDHRA UNIVERSITY (SECOND AMENDMENT) ACT, 1929.]

[2nd July, 1929.]

An Act to amend the Andhra University Act, 1925.

Preamble. WHEREAS it is expedient to amend the Andhra University Act, 1925 ; It is hereby enacted as follows :— Madras Act II of 1926.

Short title. ² [1. This Act may be called the Andhra University (Second Amendment) Act, 1929.]

Amendment of section 2 of Madras Act II of 1926. 2. In section 2 of the Andhra University Act, 1925 (hereinafter referred to as 'the said Act')—

In clause (f) the words 'Bellary, Anantapur, Cud-dapah, Kurnool or Chittoor' shall be omitted ; and the word 'or' shall be inserted before the word 'Nellore.'

Amendment of section 3 of Madras Act II of 1926. 3. In section 3 of the said Act—

In clause (1) the words 'Bellary, Anantapur, Cud-dapah, Kurnool and Chittoor' shall be omitted ; and the word 'and' shall be inserted before the word 'Nellore.'

MADRAS ACT No. VII OF 1929.³

[THE MADRAS PORT TRUST (AMENDMENT) ACT, 1929.]

[16th July 1929.]

An Act further to amend the Madras Port Trust Act, 1905.

Preamble. WHEREAS it is expedient further to amend the Madras Port Trust Act, 1905, for the purposes hereinafter appearing ; Madras Act II of 1905. And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Port Trust (Amendment) Act, 1929.

Amendment of section 64-B, Madras Act II of 1905. 2. In clause (h) of sub-section (1) of section 64-B of the Madras Port Trust Act, 1905 (hereinafter referred to as the said Act) for the word 'debentures' in both the places where it occurs, the words 'Port Trust Securities' shall be substituted.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 21st February 1928—Part IV, page 16.

² Section 1 was substituted for the original section by section 2 of the Madras Amending Act, 1930 (Madras Act I of 1931).

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 19th February 1929—Part IV, page 93.

3. In section 67 of the said Act, for the expression 'deben-
ture-holders' in both the places where it occurs the words
'holders of Port Trust Securities' shall be substituted.

Amendment
of section 67,
Madras Act
II of 1905.

4. In section 68 of the said Act, for the words 'deben-
ture-holders of the Board' occurring after the words 'of the
other' the words 'holders of Port Trust Securities' shall be
substituted.

Amendment
of section 68,
Madras Act
II of 1905.

5. In sub-section (1) of section 70 of the said Act, for the
words 'the Board's debentures' the words 'Port Trust
Securities' shall be substituted.

Amendment
of section 70,
Madras Act
II of 1905.

6. In section 74 of the said Act, clauses (5), (6) and (7)
shall be renumbered as clauses (6), (7) and (8) respectively,
and the following shall be inserted as clause (5), namely:—

Amendment
of section 74
Madras Act
II of 1905

[*Vide p. 361, Vol. II.*]

7. After section 74 of the said Act, the following section
shall be inserted, namely:—

Insertion of
new section
74-A in
Madras
Act II of
1905.

[*Vide p. 361, Vol. II.*]

MADRAS ACT No. VIII OF 1929.¹

[THE MIRZAPURAM AND PEDAGONNUR IMPARTIBLE ESTATES
ACT, 1929.]

[30th July 1929.]

An Act to declare the Mirzapuram and Pedagonnur
Estates to be impartible within the meaning of the
Madras Impartible Estates Act II of 1904.

WHEREAS it is expedient to declare that the Mirzapuram
and Pedagonnur Estates are impartible and their proprietor
cannot exercise unrestricted powers of alienation in respect
thereof; It is hereby enacted as follows:—

1. This Act may be called "The Mirzapuram and Peda-
gonnur Impartible Estates Act, 1929."

Short title.

2. Notwithstanding any decision of courts, rule of law or
enactment to the contrary, the Mirzapuram and Pedagon-
nur Estates, in the Kistna and West Godavari districts, are
hereby declared to be impartible estates within the meaning
of the Madras Impartible Estates Act II of 1904 and shall in
the hands of their present owner as well as of his heirs and
successors be subject to the provisions of that Act.

Madras Act
II of 1904.

Mirzapuram
and Peda-
gonnur
Estates to
be impartible
within the
meaning of
the Madras
Impartible
Estates Act,
1904.

3. This Act shall not affect any alienation made or debt
incurred before the commencement of this Act.

Savings.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated
11th December 1928—Part IV, pages 134-136.

Ellamarru and Pendjendra [1929: Mad. Act IX
Impartible Estates
Madras University (Amendment) [1929 : Mad. Act XII

MADRAS ACT No. IX OF 1929.¹

[THE ELLAMARRU AND PENJENDRA IMPARTIBLE ESTATES
ACT, 1929.]

[30th July 1929.]

An Act to declare the Ellamarru and Penjendra Estates to be impartible within the meaning of the Madras Impartible Estates Act II of 1904.

Preamble. WHEREAS it is expedient to declare that the Ellamarru and Penjendra estates are impartible and their proprietor cannot exercise unrestricted powers of alienation in respect thereof; It is hereby enacted as follows :—

Short title. 1. This Act may be called “The Ellamarru and Penjendra Impartible Estates Act, 1929.”

Ellamarru and Penjendra estates to be impartible within the meaning of the Madras Impartible Estates Act, 1904. 2. Notwithstanding any decision of courts, rule of law, or enactment to the contrary, Ellamarru and Penjendra estates, in the Kistna and West Godavari districts, are hereby declared to be impartible within the meaning of the Madras Impartible Estates Act II of 1904 and shall, in the hands of their present owner as well as his heirs and successors, be subject to the provisions of that Act. Madras Act II of 1904.

Savings. 3. This Act shall not affect any alienation made or debt incurred before the commencement of this Act.

MADRAS ACT No. XII OF 1929.²

[THE MADRAS UNIVERSITY (AMENDMENT) ACT, 1929.]

[29th October 1929.]

An Act to amend the Madras University Act, 1923.

Preamble. WHEREAS it is expedient to amend the Madras University Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows :— Madras Act VII of 1923.

Short title. 1. This Act may be called the Madras University (Amendment) Act, 1929.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 11th December 1928—Part IV, pages 136–138.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th October 1927—Part IV, pages 117–118.

Madras Act
VII of 1923.

2. In section 2 of the Madras University Act, 1923 (herein-
after referred to as the said Act)—

Amendment
of section 2
of Madras
Act VII of
1923.

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

[*Vide p. 876, Vol. III.*]

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

[*Vide p. 876, Vol. III.*]

(iii) in clause (f), after the words 'prescribed by'
the words 'this Act or' shall be inserted ;

(iv) after clause (g), the following clause shall be inserted,
namely :—

[*Vide p. 876, Vol. III.*]

(v) for clause (h), the following clause shall be substi-
tuted, namely :—

[*Vide p. 876, Vol. III.*]

(vi) in clause (g), for the words 'constituent college or
of an affiliated college' the words 'constituent, affi-
liated or oriental college' shall be substituted ;

(vii) for clause (j), the following clause shall be substi-
tuted, namely :—

[*Vide p. 877, Vol. III.*]

(viii) in clause (n), after the words 'means a,' the words
'whole-time or part-time' shall be inserted.

Amendment
of section 3
of Madras
Act VII of
1923.

3. In sub-section (1) of section 3 of the said Act, the words
'and the Council of Affiliated Colleges' shall be omitted, and
after the words 'the Syndicate,' the word 'and' shall be
inserted.

4. After section 4 of the said Act, the following section
shall be inserted, namely :—

[*Vide pp. 878-879, Vol. III.*]

Insertion of
new section
4-A in
Madras Act
VII of 1923.

5. In sub-section (1) of section 5 of the said Act—

(i) for the words 'creed or class', the words 'creed,
class, or political views' shall be substituted ; and

(ii) for the words 'relating to religious belief or pro-
fession' the words 'relating to religious belief or
profession or political views' shall be substituted.

Amendment
of section 5
of Madras
Act VII of
1923.

6. For section 6 of the said Act, the following section
shall be substituted, namely :—

[*Vide p. 880, Vol. III.*]

Substitution
of new
section for
section 6 of
Madras Act
VII of 1923

7. [Not printed. *Vide section 7¹ of the Madras University Act, 1923.*]

Substitution of new section for section 8 of Madras Act VII of 1923.

8. For section 8 of the said Act the following section shall be substituted, namely :—

[*Vide p. 881, Vol. III.*]

Amendment of section 9 of Madras Act VII of 1923.

9. In sub-section (1) of section 9 of the said Act, for the first sentence the following sentence shall be substituted, namely :—

[*Vide p. 881, Vol. III.*]

Amendment of section 10 of Madras Act VII of 1923.

10. For sub-section (1) of section 10 of the said Act the following sub-section shall be substituted, namely :—

[*Vide p. 881, Vol. III.*]

Amendment of section 11 of Madras Act VII of 1923.

11. In section 11 of the said Act—

(i) in sub-section (1), for the words 'five persons' the words 'three persons,' and for the words 'shall be prescribed' the words 'may be prescribed by the statutes' shall be substituted; and

(ii) in sub-section (2)—

(a) for the word 'Where' the word 'When' shall be substituted; and

(b) for the words 'carrying on the duties' the words 'exercising the powers and performing the duties' shall be substituted.

Amendment of section 12 of Madras Act VII of 1923.

12. In section 12 of the said Act—

(i) in sub-section (1), the words 'and of the Council of Affiliated Colleges' shall be omitted and after the words 'the Syndicate,' the word 'and' shall be inserted; the word 'at' occurring between the word 'address' and the words 'any meeting' shall be omitted; and

(ii) in sub-section (3), the words 'and the Council of Affiliated Colleges' shall be omitted and after the words 'the Syndicate,' the word 'and' shall be inserted.

Insertion of new section 12-A in Madras Act VII of 1923.

13. After section 12 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 883, Vol. III.*]

Amendment of section 13 of Madras Act VII of 1923.

14. In section 13 of the said Act—

(i) at the end of clause (5), the word 'and' shall be inserted;

¹ *Vide pages 880 and 881 of Volume III. See also footnote 4 at page 880, ibid.*

(ii) clause (6) shall be omitted and clause (7) renumbered as (6); and

(iii) in clause (6) as so re-numbered, for the word 'authorities' where it first occurs, the word 'bodies' shall be substituted.

15. For section 14 of the said Act the following section shall be substituted, namely :—
[*Vide pp.* 883–885, *Vol. III.*]

Substitution of new section 14 in Madras Act VII of 1923.

16. For section 15 of the said Act, the following section shall be substituted, namely :—
[*Vide pp.* 885–886, *Vol. III.*]

Substitution of new section for section 15 of Madras Act VII of 1923.

17. For section 16 of the said Act, the following section shall be substituted, namely :—
[*Vide pp.* 886–888, *Vol. III.*]

Substitution of new section for section 16 of Madras Act VII of 1923.

18. For sub-section (1) of section 17 of the said Act, the following sub-section shall be substituted, namely :—
[*Vide p.* 888, *Vol. III.*]

Amendment of section 17 of Madras Act VII of 1923.

19. (1) The paragraphs of section 18 of the said Act except the last paragraph shall be lettered as sub-section (a) of section 18 and in the sub-section as so lettered, under the head 'Class II—Other Members'—
[*Vide p.* 889, *Vol. III.*]

Amendment of section 18 of Madras Act VII of 1923.

(a) in clause (2) for the word 'three' the word 'six' shall be substituted, and at the end of clause (2) the following words shall be added : 'of whom three shall be teachers of affiliated colleges and the rest shall be persons other than teachers of affiliated colleges';

(b) clause (3) shall be omitted and clause (4) re-numbered as (3); and

(c) after clause (3), as so re-numbered, the following proviso shall be inserted, namely :—
[*Vide p.* 889, *Vol. III.*]

(2) For the last paragraph of the said section, the following sub-sections shall be substituted, namely :—

[*Vide pp.* 889–890, *Vol. III.*]

20. For section 19 of the said Act, the following section shall be substituted, namely :—

[*Vide pp.* 890–891, *Vol. III.*]

Substitution of new section for section 19 of Madras Act VII of 1923.

Amendment of the heading of Chapter V of Madras Act VII of 1923. 21. In the heading to Chapter V of the said Act, for the words "and the Council of Affiliated Colleges" the words "The Boards of Studies and Other Authorities" shall be substituted.

Substitution of new section for section 23 of Madras Act VII of 1923. 22. For section 23 of the said Act, the following section shall be substituted, namely :—
[*Vide pp. 892–894, Vol. III.*]

Substitution of new section for section 24 of Madras Act VII of 1923. 23. For section 24 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 894, Vol. III.*]

Substitution of new section for section 25 of Madras Act VII of 1923. 24. For section 25 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 895, Vol. III.*]

Insertion of new section 25-A in Madras Act VII of 1923. 25. After section 25 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 895, Vol. III.*]

Repeal of sections 26 and 27 of Madras Act VII of 1923. 26. Sections 26 and 27 of the said Act shall be omitted.

Amendment of section 28 of Madras Act VII of 1923. 27. In section 28 of the said Act, for the word 'authorities' where it first occurs, the word 'bodies' shall be substituted.

Amendment of section 29 of Madras Act VII of 1923. 28. In section 29 of the said Act—
(i) for clause (c) the following clause shall be substituted :—
[*Vide p. 895, Vol. III.*]

(ii) clauses (e) and (m) shall be omitted and clauses (f), (g), (h), (i), (j), (k), (l) and (n) re-lettered as (e), (f), (g), (i), (j), (k) and (l) respectively ;

(iii) for clause (e) as so re-lettered the following clause shall be substituted, namely :—
[*Vide p. 895, Vol. III.*]

(iv) for clause (h) as so re-lettered, the following clause shall be substituted, namely :—
[*Vide p. 896, Vol. III.*]

(v) in clause (k) as so re-lettered, after the word 'graduates' at the end, the word 'and' shall be added.

29. In section 30 of the said Act—

- (i) sub-sections (1) and (2) shall be omitted and sub-sections (3) to (6) re-numbered as (1) to (4) respectively; and
- (ii) in clause (b) of sub-section (4) as so re-numbered the words 'and the Council of Affiliated Colleges' shall be omitted.

Amendment of section 30 of Madras Act VII of 1923.

30. In section 31 of the said Act—

- (i) clause (b) shall be omitted and clauses (c) to (j) re-lettered as (b) to (i), respectively;
- (ii) for clause (c) as so re-lettered the following clause shall be substituted, namely :—

[*Vide p. 897, Vol. III.*]

- (iii) in clause (d) as so re-lettered, the word 'number' shall be omitted;
- (iv) in clause (e) as so re-lettered, the words 'for admission to the examinations, degrees and diplomas of the University and for the registration of graduates' shall be omitted; and before the words 'for tutorial and supplementary instruction' the word 'and' shall be inserted;
- (v) in clause (f) as so re-lettered, after the word 'constituent' the words 'affiliated and oriental' shall be inserted.

Amendment of section 31 of Madras Act VII of 1923.

31. For sub-section (1) of section 32 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide p. 898, Vol. III.*]

Amendment of section 32 of Madras Act VII of 1923.

32. In section 35 of the said Act—

- (i) In sub-section (2) for the words 'recognized by the Senate' the words 'recognized by the Syndicate' shall be substituted;
- (ii) in sub-section (3) the words 'or hostel' in the two places where they occur shall be omitted; and
- (iii) after sub-section (3) the following sub-section shall be inserted as sub-section (4), namely :—

[*Vide p. 899, Vol. III.*]

Amendment of section 35 of Madras Act VII of 1923.

33. In section 36 of the said Act—

- (i) In sub-section (1) for the word 'Madras' the words 'the University of Madras' shall be substituted; and
- (ii) In sub-section (2) for the words 'constituent college or of an affiliated college' the words 'constituent, affiliated or oriental college' shall be substituted.

Amendment of section 36 of Madras Act VII of 1923.

Substitution
 new section
 for section 38
 Madras Act
 No. VII of
 1923.

34. For section 38 of the said Act, the following section shall be substituted, namely :—
 [Vide p. 900, Vol. III.]

Substitution
 new section
 for section 42 of
 Madras Act
 No. I of 1923.

35. For section 42 of the said Act, the following section shall be substituted, namely :—
 [Vide p. 900, Vol. III.]

Amendment
 section 44
 Madras Act
 No. VII of
 1923.

36. For clause (b) of the second paragraph of section 44 of the said Act, the following clause shall be substituted, namely :—
 1 [* * * * *]

Amendment
 section 51
 Madras Act
 No. VII of
 1923.

37. In section 51 of the said Act, for the word 'property' the word 'properties' shall be substituted.

Deletion of
 section 54 of
 Madras Act
 No. I of 1923.

38. Section 54 of the said Act shall be omitted.

Deletion of
 Schedule I
 Madras Act
 No. VII of
 1923.

39. Schedule I to the said Act shall be omitted.

Continuation
 of Statutes,
 Ordinances
 and Regulations
 in force at the
 commencement
 of this Act.

40. The Statutes, Ordinances and Regulations in force at the time of commencement of this Act shall continue to be in force until they are replaced by Statutes, Ordinances or Regulations framed under the said Act as amended by this Act.

Continuation
 of provisions
 relating to
 the Senate,
 Syndicate
 and Academic
 Council.

41. In their application to the members of the Senate, Syndicate and Academic Council in office at the commencement of this Act and the first reconstitution of these authorities in accordance therewith, the provisions of the said Act and of this Act shall be read subject to the rules contained in the Schedule.

THE SCHEDULE.

Transitory provisions.

1. The ² [Provincial Government] shall fix a date, not later than the 31st day of March 1930, on which the term of office of members of the Senate, Syndicate and Academic Council holding office at the commencement of this Act shall expire.

¹ The clause substituted by section 36 was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937—vide footnote 4 at page 901, Volume III.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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(The Schedule.)

2. Any vacancy in the office of member of the Senate, Syndicate or Academic Council which is in existence at the commencement of this Act or which occurs before the date fixed under rule 1 shall be filled up in the same manner as it would have been filled up if this Act had not been passed :

Provided that any person elected or appointed as member under this rule shall hold office only up to the date referred to in rule 1 :

Provided however that the Syndicate may decide to have no election in the case of vacancies that may last for less than three months.

3. The Vice-Chancellor shall cause arrangements to be made for the election or appointment of members of the Senate, Syndicate and Academic Council so that the newly elected and appointed members may come into office on the date fixed under rule 1 for the expiry of the term of office of members holding office at the commencement of this Act.

4. No acts or proceedings of the Academic Council reconstituted under this Act shall be deemed to be invalid by reason only of non-compliance with the provisions of clause (2) of class II of sub-section (a) of section 23 of the said Act as amended by this Act.

5. If any difficulty arises as to the reconstitution of the Senate, Syndicate or Academic Council under this Act, the ¹ [Provincial Government], as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

MADRAS ACT No. XVI OF 1929.²

[THE ANDHRA UNIVERSITY (THIRD AMENDMENT) ACT, 1929.]

[3rd December 1929.]

An Act further to amend the Andhra University Act, 1925.

WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Madras Act II of 1926.

1. ³ [This Act may be called the Andhra University (Third Amendment) Act, 1929.] Short title.

Madras Act II of 1926.

2. To section 30 of the Andhra University Act, 1925 (hereinafter referred to as the said Act), the following proviso shall be added, namely :—

Amendment of section 30, Madras Act II of 1926.

[Vide p. 101 supra.]

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 1st October 1929—Part IV, pages 188—189.

³ Section 1 was substituted for the original section by section 2 of the Madras Amending Act, 1930 (Madras Act I of 1931).

Completion of courses of study of students preparing for examinations of the Andhra University.

3. Notwithstanding anything contained in the said Act or in the Ordinances framed thereunder,

(i) any student of a college in the present districts of Bellary, Anantapur, Cuddapah, Kurnool or Chittoor affiliated to the Andhra University before the coming into force of the Andhra University (Amendment) Act, 1929, who was studying for any examination of the Andhra University, or

Madras Act
VI of 1929.

(ii) any student who is admitted during the academic year 1929-30 into any such college to study for any examination of the Andhra University,

shall be permitted to complete his course in preparation therefor and the Andhra University shall hold for such student examinations in accordance with the curricula of studies of that University for a period of five years beginning on the second day of July 1929 and confer degrees and other academic distinctions to which such student will be entitled on his passing the said examinations if the said Andhra University (Amendment) Act, 1929, had not come into force.

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VI of 1929.

THE MADRAS GAMING ACT, 1930.

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MADRAS ACT No. III OF 1930.¹

[THE MADRAS GAMING ACT, 1930.]

[8th April 1930.]

An Act to provide for the punishment of gaming and the keeping of common gaming-houses in the Presidency of Madras.

- Preamble.** WHEREAS it is expedient to make provision for the punishment of gaming and the keeping of common gaming-houses in the Presidency of Madras; And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—
- Short title.** 1. This Act may be called the Madras Gaming Act, 1930.
- Extent.** 2. This Act extends to the whole of the Presidency of Madras with the exception of the City of Madras as defined in the Madras City Police Act, 1888. Madras Act III of 1888.
- Definitions.** 3. In this Act, unless there be something repugnant in the subject or context,—
- “ 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.” “ 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 ²[Provincial 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 connexion 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.

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 21st January 1930, page 186; for Report of Select Committee, see Proceedings of the Madras Legislative Council, Volume LI, pages 1002-1006; for Proceedings in Council, see *ibid*, Volume LI, pages 496-497 and 952-957.

² These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

4. (i) 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 kept or used to a fine not exceeding five hundred rupees or to both.

(ii) 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.

5. ¹[(1)] If any salaried Magistrate not inferior to a Magistrate of the second class or any Police Officer not below the rank of a Deputy Superintendent of Police has reason to believe that any place is used as a common gaming-house, he may by his warrant give authority to any Police Officer, not below the rank of a Sub-Inspector, to enter with such assistance as may be found necessary, by night or by day, any such place, 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 place and also the persons found therein.

¹[(2) Any Police Officer having power to issue a warrant under sub-section (1) may, instead of doing so, himself exercise all or any of the powers exercisable under such warrant.]

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

7. 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 or stake.

8. 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.

¹ Section 5 was renumbered as section 5 (1) and to the section as renumbered sub-section (2) was added by section 2 of the Madras Gaming (Amendment) Act, 1933 (Madras Act VII of 1933).

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

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

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

10. 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 the order of the Magistrate, and such Magistrate may order all or any of the other articles seized, or the proceeds thereof, to be forfeited.

Saving of games of skill.

11. Nothing in sections 5 to 10 of this Act shall be held to apply to games of mere skill wherever played.

Penalty for gaming in public street, etc.

12. 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, 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.

Police may arrest without warrant on view of offence.

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

Repeal.

14. Clause (10) and the last paragraph of section 3 and sections 6, 7 and 9 of the Towns Nuisances Act, 1889, are hereby repealed. Madras Act
III of 1889.

THE MADRAS SUPPRESSION OF IMMORAL
TRAFFIC ACT, 1930.

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MADRAS ACT No. V OF 1930.¹[THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC ACT,
1930.]

[22nd April 1930]

An Act for the Suppression of Brothels and
Immoral Traffic.

- Preamble.** WHEREAS it is expedient to make better provision for the suppression of brothels and of traffic in women and girls and for other purposes of a like nature in the Madras Presidency; And whereas the previous sanction of the Governor-General, required by sub-section (3) of section 80-A of the Government of India Act, has been obtained; It is hereby enacted as follows :—
- Short title.** ² [1. This Act may be called ‘The Madras Suppression of Immoral Traffic Act, 1930.’]
- Extent and commencement.** ² [2. The ³ (Provincial Government) may, from time to time, by notification in the ⁴ (Official Gazette), apply all or any of the provisions of this Act to the whole or any portion of the Presidency of Madras from such date as may be specified in the notification and may cancel or modify any such notification.]
- Repeal.** 3. Clause (xx) of section 71 of the Madras City Police Act, 1888, is hereby repealed. Madras Act III of 1888.
- Definitions.** 4. In this Act, unless there is anything repugnant in the subject or context,—
- (a) “Brothel” means any house, room, or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purpose of prostitution.
- (b) “Commissioner of Police” means the Commissioner of Police for the City of Madras as appointed under section 5 of the Madras City Police Act of 1888.
- (c) “Magistrate” means a salaried Presidency Magistrate or Magistrate of the first class, inclusive of the Commissioner of Police.

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 2nd October 1928, pages 101–102; for Report of the Select Committee, see *ibid.*, dated 24th September 1929, pages 167–180; for Proceedings in Council, see Madras Legislative Council Proceedings, Volume XLIV, pages 316–316; 328–339; 535–539; Volume XLVII, pages 520–523; Volume XLIX, page 620; Volume LI, pages 957–986.

² Sections 1 and 2 were substituted for the original sections by section 2 of the Madras Suppression of Immoral Traffic (Amendment) Act, 1931 (Madras Act I of 1932).

³ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words “*Fort St. George Gazette*” by *ibid.*

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- (d) " Prescribed " means prescribed by rules made under section 16.
- (e) " Prostitution " means promiscuous sexual intercourse for hire.
- (f) " Superintendent of Police " means a District Superintendent of Police appointed under the Madras District Police Act, 1859, or any person appointed by the ¹[Provincial Government] to perform the duties of the Superintendent of Police for the purposes of this Act.

5. (1) Any person who keeps or manages or acts or assists in the management of a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Punishment for keeping a brothel or allowing premises to be used as a brothel.

(2) Any person who,

(a) being the tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel ;
or

(b) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, to any person convicted under sub-section (1) or clause (a) of this sub-section with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the use of such premises, or any part thereof, as a brothel ;

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both.

(3) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which the lessee, tenant, or occupier thereof has been convicted under clause (a) of sub-section (2) shall be entitled forthwith to determine such lease, tenancy or occupation.

6. (i) Where a Magistrate has reason to believe from a report made to him by a police officer or otherwise, that a girl apparently under the age of 18 years is living, or is carrying on, or is being made to carry on the business of prostitution in a brothel, disorderly house or place of assignation, he may issue an order to a police officer not below the rank of an Inspector specially authorized in writing in this behalf by the

Removal and disposal of minor girls from brothels, etc.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Commissioner of Police, or by the Superintendent of Police, to enter into such brothel, disorderly house or place of assignation and to remove therefrom such girl; and thereupon such police officer shall have the power to enter into such brothel, disorderly house or place of assignation, and shall be entitled to remove such girl forthwith from such brothel, disorderly house or place of assignation.

(ii) A girl who has been so removed shall be brought ¹ [before a Court established under sub-section (1) of section 36 of the Madras Children Act, 1920, or where no such Court has been established, before a Court sitting in the manner specified in sub-section (2) of that section] and the Court shall cause an inquiry to be made in the manner provided in sub-section (3) of section 29 of that Act, and, if satisfied that the girl is under 18 years of age and that she should be dealt with as therein provided, may make an order that such girl be placed until she attains the age of 21 years or for any shorter period in a rescue home or in such other custody as the Court for reasons to be stated in writing shall consider suitable, provided that such custody shall not be that of a person or body of a different religious persuasion from that of the girl. Madras Act IV of 1920.

(iii) For the determination of the question whether a girl produced before a Court under the provisions of this section is under 18 years of age, the provisions of section 37 of the Madras Children Act, 1920, shall be applied. Madras Act IV of 1920.

Intermediate custody of girl removed from brothel, etc.

7. When a girl has been removed from a brothel or disorderly house or place of assignation under the provisions of sub-section (i) of section 6, the police officer carrying out the removal shall, until such girl can be brought before the Court, cause her to be detained in a rescue home or in such other suitable custody (other than a police station or jail) as may be prescribed in this behalf by the ² [Provincial Government], provided however that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

Subsequent treatment of girl committed to suitable custody under section 6 (ii).

8. When an order that a girl be placed in suitable custody has been passed under sub-section (ii) of section 6, the provisions of the Madras Children Act, 1920, shall, subject to such notifications as the Government may prescribe by rules made under section 16 and notwithstanding her age, thereafter apply to the case of such girl during the period of the said order as if she were a child or young person dealt with under section 29 of the Madras Children Act, 1920. Madras Act IV of 1920.

Madras Act IV of 1920.

¹ These words and figures were substituted for the words and figures "before a Juvenile Court constituted under section 36 of the Madras Children Act, 1920" by section 3 of the Madras Suppression of Immoral Traffic (Amendment) Act, 1931 (Madras Act I of 1932).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

¹[8-A. (1) Any person not below the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of another person shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both. Punishment for living on the earnings of prostitution.

(2) Where any person is proved—

(a) to be living with, or to be habitually in the company of, a person living in prostitution, or

(b) to have exercised control, direction or influence over the movements of a person living in prostitution in such a manner as to show that such person is aiding, abetting or compelling her prostitution with any other person or generally, it shall be presumed until the contrary is proved that such person is knowingly living on the earnings of the prostitution of another within the meaning of sub-section (1) :

Provided that the mother, or a son or daughter, of a person living in prostitution shall not be punished under sub-section (1) for living on the earnings of such person unless it is proved to the satisfaction of the Court that such mother, son or daughter is aiding, abetting or compelling her prostitution.

(3) Notwithstanding anything contained in section 2, this section shall not be applied except to the City of Madras or a municipality constituted under the Madras District Municipalities Act, 1920, or an area situated within three miles of the limits of such City or municipality.]

9. Any person who takes or attempts to take or causes to be taken from one place to another any woman or girl with a view to her carrying on or being brought up to carry on the business of prostitution or causes or induces any woman or girl to carry on the business of prostitution shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both. Importing woman or girl for prostitution.

10. (i) Any person who detains any woman or girl against her will— Detention for prostitution in brothel or with intent.

(a) in any house, room or place in which the business of prostitution is carried on, or

(b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

¹ This section was inserted by section 2 of the Madras Suppression of Immoral Traffic (Amendment) Act, 1938 (Madras Act VII of 1938).

(ii) A person shall be presumed to detain a woman or girl who is in any house, room or place in which the business of prostitution is carried on, or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,

(a) withholds from her any jewellery, wearing apparel or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewellery or wearing apparel lent or supplied to her by or by the direction of such person.

(iii) Notwithstanding any law to the contrary, such a woman or girl shall not be liable to be proceeded against civilly or criminally for taking away or being found in possession of any jewel, wearing apparel, money or other property alleged to have been lent or supplied to or to have been pledged by such woman or girl by or to the person by whom she has been detained.

Procuration. 11. Any person who induces a woman or girl to go from any place with intent that she may, for the purposes of prostitution, become the inmate of or frequent a brothel, shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Soliciting for purposes of prostitution.

12. Whoever,

(1) in any street or public place, solicits any person for the purpose of prostitution, in such manner as to cause obstruction, annoyance or danger to the residents or passengers, or to offend against public decency, or

(2) frequents such street or public place, for the purpose of prostitution or of solicitation, so as to constitute a nuisance, or to offend against public decency,

shall be punished, with imprisonment for a term which may extend to two months, or with fine which may extend to one thousand rupees, or with both.

Arrest without a warrant.

¹[13. (1) Any Police officer not below the rank of Inspector may arrest without a warrant any person who has been concerned in any offence punishable under section 5, 8-A, 9, 10, 11 or 12 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any such offence :

Provided that a person concerned or alleged or suspected to be concerned in an offence punishable under section 12 shall be arrested under this section only if the name and address of

¹ This section was substituted for the original section 13 by section 3 of the Madras Suppression of Immoral Traffic (Amendment) Act, 1938 (Madras Act VII of 1938).

such person be unknown to the Police officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.

(2) Any Police officer authorized in this behalf in writing by the Commissioner of Police or the Superintendent of Police by special order, may arrest without a warrant any person committing in his view any offence punishable under section 9, 10, 11 or 12, if the name and address of such person be unknown to such Police officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.]

¹ [14. Notwithstanding anything contained in any other law for the time being in force, any Police officer not below the rank of Inspector, and any other Police officer authorized in this behalf in writing by the Commissioner of Police or the Superintendent of Police by special order, may, for the purpose of ascertaining whether an offence punishable under section 5, 8-A, 9, 10, 11 or 12 has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman or girl is living in respect of whom an offence punishable under section 5, 8-A, 9, 10, 11 or 12 has been committed.] Power to enter premises.

15. No Court inferior to that of a Magistrate as defined in clause (c) of section 4 shall try offences under sections 5, ²[8-A,] 9, 10, 11 and 12 : Trial of offences.

Provided that notwithstanding anything contained in clause (c) of section 4, the Commissioner of Police shall not be deemed to be a Magistrate for the purpose of this section.

16. The ³ [Provincial Government] may make rules Power of Provincial Government to make rules.

(a) for the care, treatment, instruction and the maintenance of girls placed in a rescue home or homes or other suitable custody under sub-section (ii) of section 6, and

(b) for the detention of girls under the provisions of section 7, subject to the restriction that no girl shall be detained in the custody of a person or body of a different religious persuasion from that of the girl.

¹ This section was substituted for the original section 14 by section 4 of the Madras Suppression of Immoral Traffic (Amendment) Act, 1938 (Madras Act VII of 1938).

² This figure and letter were inserted by section 5, *ibid*.

³ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

MADRAS ACT No. VII OF 1930.¹[THE MADRAS VILLAGE-OFFICES (AMENDMENT)
ACT, 1930.]

[10th June 1930.]

An Act to amend the Madras Proprietary Estates' Village-service Act, 1894, and the Madras Hereditary Village-Offices Act, 1895.

- Preamble.** WHEREAS doubts have been entertained as to the intention and meaning of some of the provisions of the Madras Proprietary Estates' Village-service Act, 1894, and the Madras Hereditary Village Offices Act, 1895; And whereas it is expedient to remove those doubts; It is hereby enacted as follows :—
- Short title.** 1. This Act may be called the Madras Village-Offices (Amendment) Act, 1930.
- Amendment of Madras Act II of 1894.** 2. In the Madras Proprietary Estates' Village-service Act, 1894—
- (i) for the last sentence of section 13, the following sentences shall be substituted, namely :—
[*Vide p. 248, Vol. II.*]
- (ii) in section 15, after sub-section (3) the following sub-section shall be inserted, namely :—
[*Vide p. 249, Vol. II.*]
- Amendment of Madras Act III of 1895.** 3. In the Madras Hereditary Village-Offices Act, 1895—
- (i) after sub-section (2) of section 6, the following sub-section shall be inserted, namely :—
[*Vide p. 257, Vol. II.*]
- (ii) for the last sentence of sub-section (5) of section 10, the following sentences shall be substituted, namely :—
[*Vide p. 259, Vol. II.*]
- (iii) for the last sentence of sub-section (4) of section 11, the following sentences shall be substituted, namely :—
[*Vide p. 260, Vol. II.*]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 28th January 1930—Part IV, page 190.

MADRAS ACT No. VIII OF 1930.¹

[THE ANDHRA UNIVERSITY (AMENDMENT) ACT, 1930.]

[10th June 1930.]

An Act further to amend the Andhra University Act, 1925.

WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras Act II of 1926.

1. This Act may be called the Andhra University (Amendment) Act, 1930. Preamble.

2. In section 15 of the Andhra University Act, 1925 (hereinafter referred to as the said Act), under the head " Class III—Other Members "— Amendment of section 15, Madras Act II of 1926.

- (i) in clause (3), for the words " of the University area " the words " ² [. . .] the districts of ³ [. . .] Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor " shall be substituted ;
- (ii) in clause (4), for the words " in the University area " the words " ⁴ [. . .] the districts of Ganjam, Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor " shall be substituted ;
- (iii) in sub-clause (a) of clause (5), the words " other than the districts of Bellary, Anantapur, Cuddapah, Kurnool and Chittoor " shall be omitted ; and
- (iv) in clause (6), for the words " of the University area " the words " of ⁵ [. . .] Vizagapatam, West Godavari, East Godavari, Kistna, Guntur, Nellore, Bellary, Anantapur, Cuddapah, Kurnool and Chittoor " shall be substituted.

3. In section 18 of the said Act—

(1) for the head " Class I—Ex officio Member—The Director of Public Instruction " the head " Class I—Ex officio Members " Amendment of section 18, Madras Act II of 1926.

- (1) the Director of Public Instruction,
- (2) the Financial Secretary to the ⁶ [Provincial Government]"; and

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette Extraordinary*, dated 27th February 1930—Part IV, page 4.

² The words " of any of " have been omitted by virtue of the amendment made by the Government of India (Adaptation of Indian Laws) Order, 1937—See footnote 3 at page 92, *supra*.

³ The word " Ganjam " was omitted by paragraph 6 of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ The word " in " has been omitted by virtue of the amendment made by the Government of India (Adaptation of Indian Laws) Order, 1937—See footnote 1 at page 93, *supra*.

⁵ The words " any of the districts of Ganjam " have been omitted by virtue of the amendment made by *ibid*—See footnote 5 at page 93, *supra*.

⁶ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937, read with the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.

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(2) in clause (3) of "Class II—Other Members" for the words "two person's" the words "three persons" shall be substituted.

Insertion of new sections 19-A and 19-B in Madras Act II of 1926.

4. After section 19 of the said Act, the following sections shall be inserted, namely :—

[*Vide p. 98, supra.*]

Amendment of section 37, Madras Act II of 1926.

5. In section 37 of the said Act—

(i) the word "and" occurring at the end of clause (1) shall be omitted; and

(ii) at the end of clause (2) the following shall be inserted, namely :—

¹ [* * * * *].

Insertion of new sections 37-A, 37-B and 37-C in Madras Act II of 1926.

6. After section 37 of the said Act, the following sections shall be inserted, namely :—

² [*Vide pp. 103-104 supra.*]

MADRAS ACT No. IX OF 1930.³

[THE SEVVALPATTI IMPARTIBLE ESTATE ACT, 1930.]

[24th June 1930.]

An Act to declare the Sevvalpatti Estate to be an impartible estate within the meaning of the Madras Impartible Estates Act II of 1904.

Preamble.

WHEREAS it is expedient to declare that the Sevvalpatti Estate is an impartible estate and that its proprietor cannot exercise unrestricted powers of alienation in respect thereof; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—

Short title.

1. This Act may be called The Sevvalpatti Impartible Estate Act, 1930.

The Sevvalpatti Estate to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

2. Notwithstanding any decision of court, rule of law or enactment to the contrary, the Sevvalpatti Estate in the Ramnad and Tinnevely districts is hereby declared to be an impartible estate within the meaning of the Madras Impartible Estates Act II of 1904 and shall in the hands of the present owner as well as his heirs and successors, be subject to the provisions of that Act.

Madras Act II 1904.

Savings.

3. This Act shall not affect any alienation made or debt incurred before the coming into force of this Act.

¹ This clause was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940—*Vide* footnote 6 at page 103, *supra*.

² See footnote 4 at page 104, *supra*.

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 11th March 1930—Part IV, pages 196-197.

1930 : Mad. Act X] *District Municipalities (Amendment)* 235

1930 : Mad. Act XI] *Local Boards (Amendment)*

MADRAS ACT No. X OF 1930.¹

[THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT)
ACT, 1930.]

[26th August 1930.]

An Act to amend the Madras District Municipalities
Act, 1920.

WHEREAS it is expedient further to amend the Madras Preamble.
District Municipalities Act, 1920 ;

Madras
Act V
of 1920.

AND WHEREAS the previous sanction of the Governor-
General has been obtained to the passing of this Act ; It is
hereby enacted as follows :—

1. This Act may be called the Madras District Municipa- Short title.
lities (Amendment) Act, 1930.

² [2 to 178 * * * * *]

179. If any difficulty arises as to the first constitution or
reconstitution of any municipal council after the commence-
ment of this Act, or otherwise in first giving effect to the pro-
visions of this Act, or of the said Act as amended by this
Act, the ³ [Provincial Government], as occasion may require,
may, by order, do anything which appears to them necessary
for the purpose of removing the difficulty.

⁴ [SCHEDULE * * *]

MADRAS ACT No. XI OF 1930.⁵

[THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1930.]

[26th August 1930.]

An Act to amend the Madras Local Boards
Act, 1920.

WHEREAS it is expedient further to amend and consoli- Preamble.
date the Madras Local Boards Act, 1920, and the Madras
Village Panchayat Act, 1920 :

Madras Act
XIV of 1920.
Madras Act
XV of 1920.

AND WHEREAS the previous sanction of the Governor-
General has been obtained to the passing of this Act ; It is
hereby enacted as follows :—

1. This Act may be called the Madras Local Boards Short title.
(Amendment) Act, 1930.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*
Extraordinary, dated 12th September 1929—Part IV, pages 77-84.

² Sections 2 to 178 were repealed by the First Schedule to the Madras
Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

³ These words were substituted for the words "Local Government"
by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws)
Order, 1937.

⁴ The Schedule was repealed by the First Schedule to the Madras
Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

⁵ For Statement of Objects and Reasons, see *Fort St. George Gazette*
Extraordinary, dated 12th September 1929—Part IV, pages 227-235.

(Schedule)

1 [2 to 245 * * * * *]

Madras Act
XIV of 1920,
as amended
by this Act
to be read
subject to
the rules
in the
Schedule.

246. In first giving effect to the provisions of the said Act as amended by this Act, the said provisions shall be read subject to the rules in the Schedule.

SCHEDULE

Transitional Provisions.

1. Every district board constituted under the said Act shall be deemed to be a district board constituted under the said Act as amended by this Act.

2. Every taluk board constituted under the said Act shall be deemed to be a taluk board constituted under the said Act as amended by this Act.

3. (1) Every local area which at the commencement of this Act is a union under the said Act or a village under the Madras Village Panchayat Act, 1920, shall be deemed to be a village under the said Act as amended by this Act.

Madras Act
XV of 1920.

(2) Every union board constituted under the said Act and every panchayat constituted under the Madras Village Panchayat Act, 1920, shall be deemed to be a panchayat constituted under the said Act as amended by this Act.

Madras Act
XV of 1920.

4. The number of members constituting the strength of every local board or panchayat existing on the date of the commencement of this Act shall be deemed to be the number of members declared by notification under section 10 of the said Act as amended by this Act :

Provided that where the strength of a union board or panchayat has been fixed at seven, the ²[Provincial Government] shall appoint an eighth member thereto as soon as this Act comes into force.

5. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust by, or for, any district, taluk or union board constituted under the said Act or any panchayat constituted under the Madras Village Panchayat Act, 1920, as well as all liabilities legally subsisting against such board or panchayat shall, on and from the date of the commencement of this Act and subject to such directions as the ² [Provincial Government] may, by general or special order, give in this behalf, pass to the district board, taluk board or panchayat concerned.

Madras Act
XV of 1920.

¹ Sections 2 to 245 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Schedule)

Madras Act
XV of 1920.

(2) All proceedings taken by any such district, taluk or union board under the said Act or by a panchayat under the Madras Village Panchayat Act, 1920, as the case may be, may in so far as they are not inconsistent with the provisions of the said Act as amended by this Act, be continued under the said Act as so amended, by the district board, taluk board or panchayat concerned.

Madras Act
XV of 1920.

(3) Any remedy by way of application, suit or appeal which is provided by the said Act as amended by this Act shall be available in respect of proceedings under the said Act or under the Madras Village Panchayat Act, 1920, pending on the date of the commencement of this Act, as if the proceedings in respect of which the remedy is sought had been instituted after the commencement of this Act.

(4) If any dispute arises as to the local board to which any property, right, interest or liability is to pass under sub-rule (1), or by which any proceeding is to be continued under sub-rule (2), or to or against which any remedy is to be available under sub-rule (3), the question shall be referred to the ¹[Provincial Government] whose decision shall be final.

² [6. * * * * *].

7. Any action taken by any authorities before the commencement of this Act for taking which action new authorities are substituted by, or under, the said Act as amended by this Act, shall, unless inconsistent therewith, be deemed to have been taken by such new authorities, unless and until superseded by action taken by them.

8. Subject to the provisions of section 7 of the said Act as amended by this Act, the ¹ [Provincial Government] may, by notification published in the prescribed manner, fix the strength of any district board, taluk board or panchayat constituted under the said Act as amended by this Act at such number as they may think fit, with effect from the date fixed under clause (a) or (b) of sub-rule (1) of rule 6.

³ [9. * * * * *].

Madras Act
XV of 1920.

10. Any tax which was being levied by any panchayat on the date of the commencement of this Act under clause (a) or (b) of sub-section (1) of section 26 of the Madras Village Panchayat Act, 1920, shall continue to be levied for the year

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Rule 6 was repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

³ Rule 9 was repealed by *ibid.*

Andhra University (Second
Amendment)

[1930 : Mad. Act XII

(Schedule)

in which this Act is brought into force and for such further period, if any, as the ¹ [Provincial Government] may, by general or special order, declare to be necessary and may be recovered in the manner provided for the recovery of taxes in the rules in Schedule IV to the said Act as amended by this Act.

11. (1) Notwithstanding anything contained in rule 3 of Schedule V to the said Act as amended by this Act, the ¹ [Provincial Government] may, as soon as may be after the passing of this Act, classify roads, choultries, hospitals and dispensaries, libraries, markets and fairs and festivals in the manner mentioned in the said rule 3 and such classification shall come into effect on the date of the commencement of this Act.

(2) Any classification made under this rule may, after the commencement of this Act, be altered under the said rule 3.

12. If any difficulty arises as to the first constitution or reconstitution of any local board after the commencement of this Act or otherwise in first giving effect to the provisions of this Act or of the said Act as amended by this Act, the ¹ [Provincial Government], as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

MADRAS ACT No. XII OF 1930.²

[THE ANDHRA UNIVERSITY (SECOND AMENDMENT) ACT, 1930.]

[9th September 1930.]

An Act to amend the Andhra University Act, 1925.

Preamble. WHEREAS it is expedient to amend the Andhra University Act, ^{Madras Act II of 1926.} 1925 ; It is hereby enacted as follows :—

Short title. ³ [1. This Act may be called the Andhra University (Second Amendment) Act, 1930.]

Amendment of section 6 of Madras Act II of 1926.

2. In section 6, sub-section (3) of the Andhra University Act, 1925, for the words “ in the towns of Vizagapatam, Rajahmundry or Anantapur ” the words “ in the headquarters of the University ” shall be substituted.

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 20th September 1927—Part IV, page 85.

³ Section 1 was substituted for the original section by section 2 of the Madras Amending Act, 1930 (Madras Act I of 1931).

MADRAS ACT No. XIII OF 1930.¹

[THE ANDHRA UNIVERSITY (THIRD AMENDMENT) ACT, 1930.]

[9th September 1930.]

An Act to amend the Andhra University Act, 1925.

Madras Act II of 1926. WHEREAS it is expedient to amend the Andhra University Act, 1925 ; It is hereby enacted as follows :—

² [1. This Act may be called the Andhra University (Third Amendment) Act, 1930.]

2. In section 6 of the Andhra University Act, 1925 (hereinafter referred to as 'the said Act')—

(i) in sub-section (3), the words 'or as a first-grade college' occurring after the words 'as a University college' shall be omitted ;

(ii) sub-section (4) shall be omitted.

3. In section 26 of the said Act —

For clause (c) the following shall be substituted, namely,—

[Vide p. 101, *supra*.]

4. In section 31 of the said Act, the word 'non-political' shall be substituted for the word 'serious.'

Amendment
of section 6
of Madras
Act II of
1926.

Amendment
of section 26
of Madras
Act II of
1926.

Amendment
of section 31
of Madras
Act II of
1926.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette* dated 1st November 1927—Part IV, page 124.

² Section 1 was substituted for the original section by section 2 of the Madras Amending Act, 1930 (Madras Act I of 1931).

THE MALABAR TENANCY ACT, 1929.

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*(Preliminary.)*MADRAS ACT No. XIV OF 1930.¹

[THE MALABAR TENANCY ACT, 1929.]

[25th November 1930.]

WHEREAS it is necessary and expedient to define, declare, Preamble.
alter and amend, to the extent, in the manner, and for the
purposes hereinafter appearing, the law relating to landlord
and tenant in the district of Malabar ; And whereas the pre-
vious sanction of the Governor-General has been obtained to
the passing of this Act ; It is hereby enacted as follows :—

PRELIMINARY.

1. (1) This Act may be called the Malabar Tenancy Act, Short title.
1929.

(2) It extends to the whole of the district of Malabar. Local extent.

(3) It shall come into force on such date as the ² [Provin- Commence-
cial Government] may, by notification in the ³ [Official Gazette], ment.
appoint :

Provided that in all suits for eviction instituted after
the 30th July 1929 and pending in the court of first instance
on the date when this Act comes into force, which would have
been governed by the provisions of this Act had it been
in force at the time of their institution, the rights and obli-
gations of the parties concerned shall be regulated by the
provisions of this Act.

2. Nothing in this Act shall apply to Exemptions.

(1) lands transferred by a landlord for felling timber
or for fugitive cultivation or for planting tea, coffee,
rubber, cinchona or any other special crop prescribed
by a rule made by the ² [Provincial Government], or the
erection of any building for the purpose of or ancillary
to, the cultivation of such crop, or the preparation of
the same for the market :

Provided that no rule under this clause shall affect any
land in respect of which any cultivating verumpat-
tandar has a right of fixity of tenure under this Act
or any customary verumpattamdar, kanamdar or
kuzhikanamdar has a right of renewal under this Act,
so long as such rights subsist ; or

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 30th July 1929—Part IV, pages 134—136.

² These words were substituted for the words "Local Government"
by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws)
Order, 1937.

³ These words were substituted for the words "*Fort St. George Gazette*"
by *ibid.*

(Preliminary. Chapter I.—Definitions.)

- (2) lands on which pepper is the principal crop, or
 (3) any building owned by a landlord including a house, shop or warehouse, and the site thereof, together with the garden or land appurtenant thereto.

CHAPTER I.—DEFINITIONS.

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

- ' Agricultural year.' (a) 'Agricultural year' means the year commencing with the 15th March in any calendar year and ending with the 14th March of the following calendar year, or the year between such other dates as the Collector may specify in that behalf, by notification in the District Gazette, for the whole or any part of the district of Malabar ;
- ' Court.' (b) 'Court' means the Civil Court having jurisdiction under the Code of Civil Procedure, 1908, to entertain a suit for the possession of the holding or part thereof to which any legal proceeding under this Act relates ;
- Cultivate. (c) 'Cultivate', with its grammatical variations, means cultivate either solely by one's own labour or with the help of the labour of the members of one's tarwad or family, or of hired labourers or both, or direct or supervise cultivation by such members or hired labourers, jointly or separately, provided that such members or hired labourers have not agreed to pay or take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it ;
- ' Dry land.' (d) 'Dry land' means a land which is neither a 'wet land' nor a 'garden land' ;
- ' Eviction.' (e) 'Eviction' means the recovery of possession of land from a tenant and includes the redemption of a kanam ;
- ' Fair rent.' (f) 'Fair rent' means rent as determined in accordance with the provisions of Chapter II ;
- ' Garden land.' (g) 'Garden land' means any land used principally for growing fruit-bearing trees ;
- ' Holding.' (h) 'Holding' means a parcel or parcels of land held under a single engagement by a tenant from a landlord and shall include, any portion of a holding as above defined, which the landlord and the tenant may agree to treat as a separate holding ;
- ' Improvement.' (i) (1) the word 'improvement' shall have the same meaning as it has in the Improvements Act ;
- ' Improvements Act.' (2) 'Improvements Act' means the Malabar Com-
 Madras Act
 pensation for Tenants' Improvements Act, 1899 ; I of 1900.

(Chapter I.—Definitions.)

- (j) 'Intermediary' means any person who, not being 'Inter-
a janmi, has an interest in land, and is entitled, by ^{mediary.}
reason of such interest, to possession thereof, but has
transferred such possession to others ;
- (k) 'Janmi' means a person entitled to the absolute 'Janmi.'
proprietorship of land and includes a trustee in res-
pect thereof ;
- (l) 'Kanam' means the transfer for consideration in 'Kanam.'
money or in kind or in both by a landlord of an inter-
est in specific immovable property to another (called
the 'kanamdar') for the latter's enjoyment, the
incidents of which transfer include
- (1) a right in the transferee to hold the said property
liable for the consideration paid by him or due to
him which consideration is called 'kanartham',
 - (2) the liability of the transferor to pay to the trans-
feree interest on the kanartham,
 - (3) the payment of 'michavaram' by the transferee,
 - (4) the right of the transferee to enjoy the said prop-
erty for twelve years or any other period, and
 - (5) the liability of the transferee to pay a renewal
fee to the transferor, if the transferee is permitted
to enjoy the said property for a further period after
the termination of the original period ;
- (m) (1) 'Kudiyiruppu' means and includes the site of 'Kudi-
any residential building, the site or sites of other ^{yiruppu.'}
buildings appurtenant thereto, such other lands as
are necessary for the convenient enjoyment of such
residential building, and the easements attached
thereto ;
- (2) 'Separate kudiyiruppu' means a kudiyiruppu 'Separate
which is the sole property comprised in a holding ; <sup>kudi-
yiruppu.'</sup>
 - (3) 'Separable kudiyiruppu' means a kudiyiruppu 'Separable
which is included with other property in a holding <sup>kudi-
and which is not necessary for the convenient enjoy-
ment, as usual, of any other part of the holding ; ^{yiruppu.'}</sup>
- (n) 'Kuzhikanam' means and includes a transfer by 'Kuzhi-
a landlord to another (called the kuzhikanamdar) of ^{kanam.'}
garden lands or of other lands or of both, with the
fruit-bearing trees, if any, standing thereon at the
time of the transfer, for the enjoyment of those trees
and for the purpose of planting such fruit-bearing
trees thereon, the incidents of which transfer include
- (1) the right of the transferee to enjoy the lands for
twelve years or for any other period, and (2) the liabi-
lity of the transferee to pay a renewal fee to the trans-
feror, if the transferee is permitted to enjoy the said
lands for a further period after the termination of
the original period ;

(Chapter I.—Definitions.)

- ' Landlord.' (o) ' Landlord ' means a person under whom a tenant holds and to whom he is liable to pay rent or michavaram, and includes a janmi ;
- ' Melcharth.' (p) ' Melcharth ' means the transfer by the landlord of part of his interest in any land held by his tenant by which the transferee is entitled to evict such tenant ;
- ' Michavaram.' (q) ' Michavaram ' means whatever is agreed by a kanamdar in a kanam deed to be paid periodically, in money or in kind or in both, to or on behalf of the janmi ;
- ' Pay.' (r) ' Pay ' with its grammatical variations, includes deliver ;
- ' Prescribed.' (s) ' Prescribed ' means prescribed by rules made under this Act ;
- ' Renewal fee.' (t) ' Renewal fee ' means fee or fees payable by a tenant to his landlord for the renewal of the legal relationship under which the tenant has been holding any land ;
- ' Rent.' (u) ' Rent ' means whatever is lawfully payable in money or in kind or in both, to a person entitled to the use or occupation of a land, by another, permitted by the person so entitled, to have the use or occupation of the said land, for any purpose, on the understanding, express or implied, that the person so permitted would pay consideration for such use or occupation ;
- ' Tenant.' (v) ' Tenant ' means any person who has paid or has agreed to pay rent, or other consideration, for his being allowed by another, to enjoy the land of the latter, and includes an intermediary, a kanamdar, a kuzhikanamdar, and a verumpattamdar of any description ;
- ' Verumpattamdar.' (w) (1) ' Verumpattamdar ' means a tenant other than a kanamdar or kuzhikanamdar of a holding, for agricultural purposes, which includes wet lands, and may or may not include other lands ;
- ' Cultivating verumpattamdar.' (2) ' Cultivating verumpattamdar ' in respect of a holding means any verumpattamdar who, not being a janmi, intermediary or customary verumpattamdar of that holding has, expressly or impliedly, contracted to cultivate the lands in that holding, either as a tenant-at-will or during a fixed term, and actually cultivates the same ;
- ' Customary verumpattamdar.' (3) ' Customary verumpattamdar ' means any verumpattamdar who is entitled by custom of the locality in which the land is situate to possession of the said land for a definite period of years and for whose continuance thereon after the termination of that

(Chapter I.—Definitions. Chapter II.—Fair Rents,

period, for a further period, a renewal fee has to be paid to the landlord as an incident of the tenure ; and

- (x) 'Wet land' means land which is adapted for the 'Wet land' cultivation of paddy.

CHAPTER II.—FAIR RENTS.

4. In this Chapter—

- (a) 'seed required' means the quantity of seed customarily deemed to be required, and Interpretation clause.
- (b) 'gross produce' in respect of wet lands means the produce obtained after paying the expenses of reaping.

5. Fair rent in the case of dry lands converted into wet by the tenant's labour shall be—

- (a) for a period of twenty years from the year in which the first wet crop is raised on the land, one-fifth of the difference between the annual gross paddy produce of the land and three times the seed required for the said land for an agricultural year, and Fair rent of dry lands converted into wet by tenant's labour.
- (b) after the expiration of the said period of twenty years, one-fifth of the difference between the annual gross paddy produce of the land and two and a half times the seed required for the said land for an agricultural year.

6. In the case of wet lands not falling under the previous section, fair rent shall be two-thirds of the difference between one-third of the gross paddy produce of the land for the three years immediately previous to the date on which fair rent is to be ascertained and two and a half times the seed required for the said land for an agricultural year :

Provided that

- (i) if, in any particular year, no crop at all is raised, or only a dry crop is raised on a land registered in the registers of the Government as a single-crop land, the produce shall be deemed to be the estimated produce of a single paddy crop ; and
- (ii) in the case of lands registered as double-crop lands in the said registers, account shall be taken as though two paddy crops have been harvested, irrespective of the number and the kind of the crops raised, and of the fact that no crop whatever is raised in any particular year on such lands.

7. (1) In the case of garden lands, fair rent shall be a share, ascertained under sub-sections (2), (3) and (4) of this section, of one-third of the gross produce for the three years immediately previous to the date on which fair rent is to be ascertained.

Fair rent of garden lands.

(Chapter II.—Fair Rents. Chapter III.—Cultivating Verumpattamdars.)

(2) As regards coconut trees in respect of which the landlord is bound to pay compensation under the Improvements Act in case of eviction, the share shall be one-fifth of the said one-third, of only the nuts included in such produce and, as regards trees in respect of which he is not bound to pay such compensation the share shall be two-fifths of the said one-third :

Provided that where a coconut tree has been let for tapping, its produce of nuts for the purposes of this sub-section during the said three years shall be deemed to be the same as the produce of nuts during the three years of a tree of a similar description and with similar advantages in the neighbourhood which has not been let for tapping.

(3) As regards areca trees and pepper vines where pepper is not the principal crop on the land in respect of which the landlord is bound to pay compensation under the Improvements Act in case of eviction, the share shall be one-sixth of the said one-third of only the nuts and pepper included in such produce, and as regards trees and pepper vines in respect of which he is not bound to pay such compensation, the share shall be one-third of the said one-third.

(4) Nothing shall be payable (i), for the minor produce of coconut or areca trees such as leaves, fibre, etc., whether such compensation is payable or not in respect of the said trees, or (ii) for the produce of other classes of fruit-bearing trees such as jack, mango, tamarind, palmyra and cashewnut.

Fair rent of dry lands.

8. Fair rent in the case of dry lands shall be three times the assessment payable in respect thereof per annum.

Fair rent of lands within municipal limits.

9. (a) In the case of lands situated within the limits of any municipality and not built or planted upon, or on which no crop is grown, the fair rent shall be the rent paid or agreed to be paid in respect of similar lands, of the same extent, in the neighbourhood ;

(b) In the case of other lands situated within the said limits, the fair rent shall be the fair rent determined under sections 5 to 8, or the fair rent determined under sub-section (a) of this section, whichever is higher.

CHAPTER III.—CULTIVATING VERUMPATTAMDARS.

Cultivating verumpattamdar's right to fixity of tenure.

10. Notwithstanding any contract to the contrary entered into whether before or after the coming into force of this Act, every cultivating verumpattamdar shall have fixity of tenure in respect of his holding as hereinafter provided, and shall not be evicted therefrom except as provided in this Act.

(Chapter III.—Cultivating Verumpattamdars.)

11. Any cultivating verumpattamdar or his immediate landlord may apply to the court in the form prescribed for fixing the extent of the holding, the fair rent in respect of it, the instalments, if any, in which it shall be payable and the date or dates when the fair rent or the instalments thereof shall be payable.

12. On the receipt of an application under section 11, the court shall issue notice to all the parties concerned and after enquiry determine by an order—

- (i) the extent of the holding ;
- (ii) the fair rent that is payable in respect of it ;
- (iii) the instalments, if any, in which the fair rent shall be payable ; and
- (iv) the date or dates on which the said rent or instalments shall be payable.

13. (1) A landlord may, at any time, by notice in writing, call upon his cultivating verumpattamdar, at the latter's option

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance and furnish security for the balance.

(2) If, within a period of six months from the date of the service of notice upon him under sub-section (1), the cultivating verumpattamdar fails to pay the advance or furnish the security demanded by the landlord, the landlord may apply to the court, in the form prescribed, for an order to direct the cultivating verumpattamdar, at the latter's option

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance and furnish security for the balance.

(3) On the receipt of an application under sub-section (2), the court shall issue notice to the cultivating verumpattamdar and, if satisfied after inquiry that the tenant has not complied with any of the provisions of sub-section (2), order the cultivating verumpattamdar, at the latter's option,

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance and furnish security for the balance,

within such date as the court may fix.

(Chapter III.—Cultivating Verumpattamdars.)

(4) Where the cultivating verumpattamdar has already paid a portion of one year's fair rent of the holding in advance, or furnished security for a portion of the said fair rent, the provisions of sub-sections (1) to (3) shall apply in respect of the balance of such fair rent.

(5) Any advance of fair rent paid by a cultivating verumpattamdar to his landlord, whether before or after a demand under sub-section (1) or deposited by him for such payment under clause (i) of sub-section (4) of section 15, shall bear interest at six per cent per annum from the date of payment or from the date of service of notice of such deposit through court, as the case may be.

Grounds for
eviction of
cultivating
verum-
pattamdar.

14. No suit for eviction of a cultivating verumpattamdar from his holding shall lie at the instance of his landlord except on the following grounds :—

(1) that the tenant has wilfully denied the title of the landlord before the date of such suit ;

Explanation.—A denial of the landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause ;

(2) that the tenant has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes ;

(3) that the tenant has not paid, within three months after the due date, the whole or any portion of the rent due in respect of the holding ;

(4) that the tenant has collusively allowed a stranger to encroach on the holding or part thereof adversely to the interests of the landlord ;

(5) that, at the end of an agricultural year, the landlord requires the holding *bona fide* for his own cultivation or for that of any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein ;

(6) that, at the end of an agricultural year, the landlord requires the holding or part thereof *bona fide* for building purposes for himself or any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein ;

(7) that the tenant has not complied with the order of the court under sub-section (3) of section 13 :

Provided that in cases falling under clauses (4) and (6) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

(Chapter III.—Cultivating Verumpattamdars.)

Explanation.—In the case of a landlord governed by a law other than the Marumakkattayam law, the wife or husband and the children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.

15. (1) In any case in which eviction has been obtained on the ground specified in clause (5) of section 14, subject to the provisions of section 43, if the landlord who has obtained such eviction transfers any of the lands to any person on any kind of lease or mortgage with possession or on kanam, kuzhikanam or verumpattam within six years of such eviction, the cultivating verumpattamdar shall be entitled to sue for the restoration to him of the possession of all the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a cultivating verumpattamdar.

Tenant's right to sue for restoration of possession of land in certain cases.

(2) In any case in which eviction has been obtained on the ground specified in clause (6) of section 14, the cultivating verumpattamdar shall be entitled to the right of suit conferred by sub-section (1) not only under the circumstances mentioned therein but also if the building for constructing which the eviction was obtained is not erected on the lands within six years of the eviction.

(3) In any suit in which eviction is claimed on the ground specified in clause (3) of section 14, if the tenant deposits in court, for payment to the plaintiff in the suit, (i) the amount of rent due with interest thereon at the contract rate, if any, (ii) interest on the principal amount of the rent due at twelve per cent per annum from the date of suit up to the date of deposit, and (iii) the costs of the plaintiff up to that date, the court shall dismiss the suit.

(4) In any suit in which eviction is claimed on the ground specified in clause (7) of section 14, if the tenant—

(i) (a) deposits in court for payment to the plaintiff in the suit one year's fair rent of the holding in advance or furnishes security for the same or deposits in court for such payment a portion of such fair rent and furnishes security for the remainder, or

(b) where he has already paid a portion of the said fair rent or furnished security for a portion thereof, deposits in court for payment to the plaintiff the balance of the said fair rent or furnishes security for such balance or deposits in court for such payment a portion of such balance and furnishes security for the remainder ; and

(ii) deposits in court for payment to the plaintiff the costs of the latter up to the date of deposit ;

the court shall dismiss the suit.

(Chapter IV.—Renewals.)

CHAPTER IV.—RENEWALS.

Customary verumpattamdar's right to claim renewal and the renewal fee to be paid by him.

16. A customary verumpattamdar shall on the expiry of the verumpattam lease under which he holds be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same, on payment to him, as renewal fee, of three times the balance of the annual fair rent of the lands covered by the verumpattam lease after deducting both the annual rent payable under the previous lease and the annual Government revenue in cases where the revenue is payable by such customary verumpattamdar.

Kanamdar's right to claim renewal and the renewal fee to be paid by him.

17. (a) A kanamdar shall on the expiry of the kanam under which he holds be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same on payment, as renewal fee, of two and one-fourth times the balance of the annual fair rent of the lands covered by the kanam after deducting (1) the annual revenue payable on the kanam property to the Government, if payable by the kanamdar under the kanam deed, (2) the annual interest on the kanartham, and (3) the annual michavaram payable under the previous kanam.

(b) When neither the rate of interest nor the amount of interest per annum nor the sum total of the annual revenue payable on the kanam property to Government by the kanamdar and the amount of interest per annum, is specified in the kanam deed, interest shall, for the purposes of sub-section (a), be calculated

- (1) In North Malabar—at five per cent per annum, and
- (2) In other places—at twelve per cent per annum when the kanartham does not exceed one thousand rupees, at nine per cent per annum subject to a minimum of one hundred and twenty rupees per annum when it exceeds one thousand rupees but does not exceed three thousand rupees; and at six per cent per annum subject to a minimum of two hundred and seventy rupees if it exceeds three thousand rupees :

Provided that, when any usage governing kanam transactions fixes a rate of interest lower than what is provided for in this sub-section, the interest shall be calculated at such rate.

- (c) Nothing in this section shall apply to a kanam
 - (i) where the kanartham exceeds
 - in South Malabar, sixty per cent, and
 - in North Malabar, forty per cent,
 of the value of the janmi's rights in the holding, or
 - (ii) where all the lands covered by the kanam are dry lands.

(Chapter IV.—Renewals.)

Explanation I.—For the purpose of sub-sections (b) and (c), ‘North Malabar’ means the taluks of Chirakkal, Kottayam, Kurumbranad and Wynaad; and ‘South Malabar’ means the other taluks in the district of Malabar.

Explanation II.—For the purpose of sub-section (c), the janmi’s rights in the holding shall be valued at twenty times the excess of the annual fair rent of the holding over the annual revenue payable thereon to Government—

- (1) in the case of a kanam existing on the date of the commencement of this Act, on such date and
- (2) in the case of a kanam created after the commencement of this Act, on the date of the kanam.

18. (1) A cultivating kuzhikanamdar shall on the expiry of the kuzhikanam under which he holds be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the same, on payment, as renewal fee, of the total of one-fourth of the annual gross produce of the fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding, belonging to the cultivating kuzhikanamdar and one-half of the annual gross produce of the other fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding.

Cultivating kuzhikanamdar’s right to claim renewal and the renewal fee to be paid by him.

(2) Any intermediary of the kuzhikanam shall, on the expiry of the kuzhikanam under which he holds, be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for twelve years, of the same, on payment, as renewal fee, of the total of one-fourth of the annual gross produce of the fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding, belonging to the intermediary and all the tenants below him including the cultivating kuzhikanamdar and one-half of the annual gross produce of the other fruit-bearing trees and pepper vines where pepper is not the principal crop in the holding.

Intermediary’s right to claim renewal of kuzhikanam and the renewal fee to be paid by him.

Explanation.—For the purpose of this section, the annual gross produce shall be deemed to be equivalent to a third of the total nuts, fruits and pepper produced during the immediately preceding three years, and where a coconut tree has been let for tapping its produce of nuts for the purposes of this section shall be deemed to be the same as the produce of nuts of a tree of a similar description and with similar advantages in the neighbourhood which has not been so let.

(Chapter IV.—Renewals.)

Time within which renewal fee is payable.

19. Subject to the provisions hereinafter contained, the renewal fee fixed under sections 16 to 18 shall be payable as follows :—

- (a) In case the tenant is not a cultivating kuzhikanamdar, two-thirds of the renewal fee in the year next after the termination of the expiring transaction and one-third in the next following year ;
- (b) in case he is a cultivating kuzhikanamdar, one-third of the renewal fee in the year next after the termination of the expiring kuzhikanam and the rest in five equal consecutive annual instalments in the years following the said year.

Grounds for eviction of customary verumpattamdar, kuzhikanamdar or kanamdar.

20. No suit for eviction of a customary verumpattamdar, kuzhikanamdar or kanamdar shall lie at the instance of his landlord except on the following grounds :—

(1) that the tenant has wilfully denied the title of the landlord before the date of such suit ;

Explanation.—A denial of the landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause ;

(2) that the tenant has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes ;

(3) that the period of the verumpattam, kuzhikanam or kanam, as the case may be, has expired and no renewal has been obtained ;

(4) that the tenant has collusively allowed a stranger to encroach on the holding or part thereof adversely to the interests of the landlord ;

(5) that the period of the verumpattam, kanam or kuzhikanam, as the case may be, has expired and there has been no renewal and the landlord requires the holding *bona fide* for his own cultivation or for that of any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein ;

(6) that the period of the verumpattam, kanam or kuzhikanam, as the case may be, has expired and there has been no renewal and the landlord requires the holding or part thereof *bona fide* for building purposes for himself or any member of his family or tarwad or tavazhi who has a proprietary and beneficial interest therein :

Provided that in cases falling under clauses (4) and (6) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

(Chapter IV.—Renewals.)

Explanation.—In the case of a landlord governed by a law other than the Marumakkattayam law, the wife or husband and the children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.

21. (1) In any case in which eviction is obtained on the ground specified in clause (5) of section 20, subject to the provisions of section 43 if the landlord who obtains such eviction transfers any of the lands to any person on any kind of lease or mortgage with possession or on kanam, kuzhikanam or verumpattam within six years of such eviction, the tenant shall be entitled to sue for the restoration to him of the possession of all the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a tenant.

Tenant's right to sue for restoration of possession of land in certain cases.

(2) In any case in which eviction has been obtained on the ground specified in clause (6) of section 20, the tenant shall be entitled to the right of suit conferred by sub-section (1) not only under the circumstances mentioned therein but also if the building for constructing which the eviction was obtained is not erected on the lands within six years of such eviction.

22. (1) Notwithstanding any contract to the contrary (whether made before or after the commencement of this Act), a customary verumpattamdar, kanamdar or kuzhikanamdar shall be entitled to apply to the court in the form prescribed for the execution of a renewal deed.

Tenant's right to apply to court for execution of renewal deed.

(2) On the receipt of an application under sub-section (1) notice thereof shall be sent to the landlord from whom such renewal is claimed, fixing a date for the trial of the application.

23. (a) On the date fixed under sub-section (2) of section 22 the court shall call upon the said landlord to state in writing whether he desires to evict the tenant on any of the grounds referred to in section 20 except ground (3) and take the holding; and if the landlord expresses his intention to do so the application shall be dismissed.

Dismissal of application if landlord desires to evict the tenant on certain grounds.

(b) If the landlord sues to evict the tenant on ground (3) referred to in section 20, the tenant shall be entitled to make an application or fresh application under sub-section (1) of section 22 and the suit shall abide and follow the result of such application.

24. If the application is not dismissed under sub-section (a) of section 23, the court shall determine

Procedure on application under section 22.

(1) determine

(a) the amount to be paid as renewal fee under sections 16, 17 or 18,

(Chapter IV.—Renewals.)

- (b) the amount of each instalment under section 19, and
- (c) the date on which each instalment was or will become due ; and
- (2) make an order for the deposit, within a time to be fixed in the said order, of
- (a) the instalment or instalments due on or before the date of the order,
- (b) interest at 12 per cent per annum on each such instalment from the date on which it became due or from the date of the commencement of this Act, whichever is later, and
- (c) all arrears of rent with interest thereon at the contract rate, if any, found due up to the date of the order if the landlord claims that any arrears of rent are due :

Order to
deposit
renewal fee,
etc.

Provided that no such interest on a renewal fee or a portion thereof shall be payable if the landlord has refused a valid tender of the renewal fee payable under section 19 or if an application under sub-section (1) of section 22 has been dismissed under section 23 (a).

Effect of
failure to
deposit
renewal fee,
etc.

25. (1) If the deposit ordered under clause (ii) of section 24 is not made within the time fixed thereunder, the court shall dismiss the application, and such dismissal shall bar any subsequent application under section 22 by the tenant or those claiming under him.

Execution of
renewal deed
by court.

(2) If the said deposit is made within the time fixed, the court shall

- (i) execute a renewal deed containing such terms as it determines to be the terms of the expiring ransaction and as are in accordance with law,
- (ii) pass, where necessary, an order directing the person entitled to the renewal deed to pay the landlord a further instalment or instalments of the renewal fee in accordance with section 19 with interest at six per cent per annum on each instalment from the due date to the date of payment, and
- (iii) make such order as to costs of the proceedings before it as it may deem fit.

Legal effect
of renewal
deed execu-
ted by
court.

(3) A renewal deed executed by the court under sub-section (2) shall have the same effect as if it was executed by the landlord himself, and shall entitle the tenant to enjoy the holding for twelve years from the date of the termination of the previous lease, kanam or kuzhikanam.

26. (1) In case there are one or more intermediaries between the janmi and the tenant in actual possession of the holding and a renewal has been granted by an intermediary (hereinafter referred to in this section as the grantor) after this Act comes into force or by the court on his behalf under sub-section (2) of section 25, if the grantor on his own part does not obtain renewal for any reason, the person to whom such renewal has been granted (hereinafter referred to as the grantee) shall be deemed to have contracted with the intermediary or the janmi who is the landlord next above the grantor, for the period of the renewal given to the grantee, on the terms on which the grantee had contracted with the grantor or on the terms on which the grantor had contracted with such next landlord, at such landlord's choice, and there shall be deemed to be privity of contract between the grantee and such landlord subject to the right of the janmi or the landlord to evict the tenant on the grounds specified in section 20 other than the ground of non-payment of renewal fee.

Effect of renewal on the rights of landlord's landlord.

(2) The intermediary or the janmi who is the landlord next above the grantor shall be entitled to sue the grantor for the proportionate share of any renewal fee which he might have obtained from the grantee for the period between the termination of such grantee's interest in the land and that of the period for which he had given renewal.

Illustration.—*A*, a janmi, grants a kuzhikanam to *B* in 1928. *B* grants a sub-kuzhikanam to *C* in 1932. In 1940 *B* gets a renewal from *A* and in 1944 he grants a renewal to *C*. In 1952 *B* does not take a renewal. *C* shall be deemed to have contracted with *A* on the terms of his own renewal of 1944 or on the terms of *B*'s renewal of 1940 at *A*'s option, and *A* will not be entitled to evict *C* till 1956.

If, in the above illustration, *B* had taken a renewal fee of Rs. 120 from *C* when granting the renewal in 1944, *B* shall be liable to pay *A* one-third of Rs. 120 for the period between 1952, when his interest ends and 1956, up to which *C* is entitled to stay on the land.

27. Where in respect of any customary verumpattam, kanam or kuzhikanam holding for which a renewal deed has been executed under the provisions of this chapter, if (a) no application is filed under sub-section (1) of section 22 or (b) within six months after the termination of the period for which the said renewal deed enures and of every period of twelve years succeeding such period, the tenant does not secure a renewal on such terms as may be agreed to between him and the landlord, he may be deemed at the option of such landlord to have agreed to a renewal on the terms of the

Right of landlord to sue for renewal fee in certain cases.

(Chapter IV—Renewals. Chapter V.—Rents.)

said deed for twelve years from the date of the termination of each of the said periods, and the said landlord shall be entitled to sue the said tenant for the renewal fee specified in sections 16, 17 or 18.

CHAPTER V.—RENTS.

Cultivating verumpattamdar's liability to pay fair rent. 28. Every cultivating verumpattamdar shall be bound to pay to his immediate landlord, fair rent as fixed under section 12 :

Provided that in the case of cultivating verumpattamdar's holding existing at the date on which this Act comes into force, the rent payable on such holding shall be deemed to be fair rent for a period of twelve years from such date ; unless the rent fixed under section 12 has been taken into account for the purpose of calculating the renewal fee under Chapter IV and there has been a renewal, in which case, such rent shall be payable by the cultivating verumpattamdar from the date of renewal.

Liability for revenue as between landlord and cultivating verumpattamdar. 29. (1) As between any landlord and a cultivating verumpattamdar, the latter shall be liable for (a) the revenue payable to the Government as also the local cesses, on any land on which no rent is payable under this Act, and (b) any special charges leviable by the Government for special or additional crops raised on the wet lands.

Liability for municipal tax. (2) In the case of lands (within the limits of a municipality) in respect of which the landlord has obtained fair rent as ascertained under section 9, he shall bear the tax levied by the municipality for such land to the extent such rent is higher than what is payable therefor under sections 5 to 8 ; but otherwise the landlord and the tenant shall bear such tax in equal shares.

Revision of rent. 30. (1) At any time after the expiry of twenty years from the date of an order fixing the fair rent in respect of a holding or from the date of the last confirmation or revision of such order under this section, the cultivating verumpattamdar, or his immediate landlord shall be entitled to apply, in the form prescribed, to the court for the revision of such order so far as the fair rent is concerned.

(2) On the receipt of such an application, the court shall, after notice to the landlord or the cultivating verumpattamdar, as the case may be, determine the fair rent and confirm or revise the order.

(3) If the order is revised, the cultivating verumpattamdar shall be bound to pay rent according to the revised order from the beginning of the agricultural year next after the date of such revision.

(Chapter V.—Rents. Chapter VI.—Kudiyiruppus.)

31. (1) A cultivating kuzhikanamdar shall, when making an application under section 22, or the landlord may, when answering such an application, apply to the court dealing with the application to determine the fair rent payable in respect of the holding to which the application relates, and the court shall make an order determining the same before disposing of the said application, and for the period for which the renewal deed executed on the said application enures, the parties thereto shall be bound to pay and receive rent so determined by the court.

Application to court to fix fair rent in case of kuzhikanam.

(2) Nothing in this section shall, in respect of the trees which had begun to bear fruits at or before the time of the execution of the deed referred to in clause (i) hereunder,

(i) entitle the landlord to claim or compel the tenant to pay, for a period of twelve years from the commencement of this Act, more than the rent specified in the latest kuzhikanam deed, original or renewed, executed before the commencement of this Act, or

(ii) authorize any claim for an enhancement at the time of each renewal by more than twelve and a half per cent of such rent.

32. Notwithstanding any contract to the contrary, express or implied, whether entered into before or after the coming into force of this Act, no cultivating verumpattamdar shall be liable to pay to his landlord anything more or anything else than the fair rent and no tenant who is entitled to claim a renewal under this Act shall for the purpose of obtaining the renewal be liable to pay as renewal fee anything more or anything else than the renewal fee provided by this Act.

Invalidity of claim for dues other than fair rent and renewal fee fixed under Act.

CHAPTER VI.—KUDIYIRUPPUS.

33. In any suit for eviction relating wholly or in part to a kudiyiruppu, which has been in the continuous occupation of a tenant or the members of his family for ten years on the date of the institution of the said suit, such tenant shall be entitled to offer to purchase the rights in the kudiyiruppu, of the landlord who seeks to evict him, at the market price on the said date.

Tenant's right to offer to purchase landlord's right in kudiyiruppu.

34. (1) An offer under section 33 shall be in writing and shall contain the particulars prescribed.

Procedure to enforce the offer.

(2) Notice of such offer, with a copy thereof, shall be served on the landlord at the expense of the tenant, fixing a date for the landlord to accept or decline the offer.

(3) After such notice has been served on the landlord, (a) if the landlord unconditionally accepts the offer, the court shall record such acceptance and order

Points to be determined by court on the offer.

(Chapter VI.—Kudiyiruppu.)

the tenant to deposit in court the price specified in his offer together with the arrears, if any, of rent, michavaram, the revenue payable to the Government by the tenant and the local cesses payable by the tenant in respect of such kudiyiruppu and on such deposit the landlord shall be paid the amount deposited ; and the suit, in so far as it relates to the eviction from the kudiyiruppu, shall be dismissed ; and

(b) if the landlord, for any reason, does not unconditionally accept the offer, the court shall decide whether the kudiyiruppu is a separate or separable kudiyiruppu.

Order to deposit market price, etc.

(4) If the decision under clause (b) of sub-section (3) is that the kudiyiruppu is separate or separable, the court shall proceed further and determine the market price of the landlord's rights as it stood on the date fixed for acceptance of the offer by the landlord and shall call upon the tenant to deposit the market price so settled together with the arrears referred to in clause (a) of sub-section (3), if any, on or before a date fixed by it in writing.

Payment of market price by instalments.

(5) Notwithstanding anything contained in sub-section (4), the court, if it is satisfied that the tenant is too poor to pay the market price in a lump sum, may dispense with the deposit of the market price and order that the said price be paid to the landlord, with interest at six per cent per annum, in as many annual instalments not exceeding twelve as the court may fix having regard to the means of the tenant, on condition that sufficient security is furnished by the tenant, for the regular payment of such instalments.

Effect of failure to deposit market price, etc.

35. If the decision under sub-section (3) of section 34 is that the kudiyiruppu is neither separate nor separable, or if the deposit called for under sub-section (4) of the said section is not made or if the security called for under sub-section (5) of that section is not given on or before the date so fixed, the court shall dispose of the suit for eviction referred to in section 33 as if no such offer had been made.

Procedure on deposit of market price, etc.

36. Upon the tenant making such deposit under sub-section (4) of section 34 or on security being given under sub-section (5) of that section together with the deposit of the arrears referred to in clause (a) of sub-section (3) of that section the suit referred to in section 33 in so far as it relates to the kudiyiruppu, shall be dismissed.

Investment of money deposited at the instance of persons interested therein.

37. The court in which a deposit is made under this chapter may in its discretion at the instance of any person interested in the sum deposited order that such deposit be invested in the manner referred to in section 32 of the Land Acquisition Act, 1894.

(Chapter VI.—Kudiyiruppu. Chapter VII.—Miscellaneous.)

38. The order or decree under section 36 shall operate as a sale to the tenant of the landlord's rights in the kudiyiruppu subject to the condition that in the event of any sale of the kudiyiruppu, subsequent to the said order or decree by the tenant, his heirs, executors, representatives in interest or assigns, or in execution of a decree against them, or by a receiver in insolvency, the person who, but for the provisions of this section, would be entitled to the landlord's rights in the said property at the time of such subsequent sale, shall be entitled to claim pre-emption.

Effect of order or decree under section 36.

CHAPTER VII.—MISCELLANEOUS.

39. Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable.

Tenant's rights to be heritable and alienable.

40. (1) Any tenant whose holding has been granted on melcharth may when sued for eviction avail himself of the provisions of Chapter III or Chapter IV.

Tenant's right to avail himself of the provisions of Chapter III or IV in certain cases.

(2) No holder of a melcharth can when suing for eviction claim possession on grounds (5) and (6) of section 14 or on grounds (5) and (6) of section 20 as the case may be.

41. Renewal fees and arrears of michavaram or rent due to the landlord together with interest, if any, payable on the same shall be a charge on the interest of the person from whom they are due in the holding in respect of which they are due as at the time of the creation of such intetest, and such charge shall have priority over all other charges on the same except the charge for the revenue and any dues thereon payable to Government or to a local authority and made a charge thereon by any law for the time being in force.

Renewal fees and arrears of michavaram and rent to be a first charge on holding after revenue.

42. (1) A landlord who has obtained a decree for eviction in respect of a kuzhikanam, shall, in execution of such decree, be entitled to apply for the sale of the holding specified therein and of the improvements in respect of which compensation is awarded under the said decree, and for the payment to him of the balance of the sale price after deducting the amount of the said compensation.

Right of holder of decree for eviction of kuzhikanamdar to apply for sale of holding.

(2) In case such an application is made by a landlord and a sale is held in pursuance of such application, the person to whom the said compensation has to be paid, shall be entitled to bid at the sale and set off the said compensation towards the sale price, and no deposit need be made by him at the sale except in so far as the price offered by him exceeds the said compensation.

Right of tenant to bid at such sale.

(Chapter VII.—Miscellaneous.)

Limitation
for suits for
restoration
under
sections 15
and 21.

43. (1) (a) A suit for restoration under sub-section (1) of section 15 or under sub-section (1) of section 21 shall be instituted within one year from the date of the transfer by the landlord.

(b) A suit for restoration under sub-section (2) of section 15 or under sub-section (2) of section 21 shall be instituted within one year from the expiry of the six years after the eviction.

Persons
entitled to
restoration.

(2) If there are intermediaries between the landlord who has obtained the eviction and the person who cultivates the land, all persons whose interests in the holding are terminated by the eviction, shall be entitled to be restored to the respective interests they had at the time of the eviction as if there had been no eviction, and in case any one of them does not claim restoration the tenant next below him shall be entitled to claim such restoration and hold the land,

(a) on the terms on which the person not claiming the land held it, if he and the claimant belonged to the same class, or

(b) on the terms on which the claimant held it if he and the person who did not claim the land belonged to different classes ;

Provided always that, if the landlord obtaining eviction had paid any value for improvements to any one whose interests were so terminated, the person claiming restoration shall, before such restoration is effected, be bound to return to the landlord the value so paid in respect of the improvements existing at the time of the restoration together with the kanartham, if any, and also the value of the improvements, if any, effected *bona fide* by the landlord between the date of eviction and the date of suit.

Explanation.—For the purpose of this section, a kanamdar, an intermediary in respect of a kuzhikanam, a cultivating kuzhikanamdar, a verumpattamdar and a customary verumpattamdar belong each to a different class. A cultivating kanamdar, a non-cultivating kanamdar and a kanamdar under a kanamdar belong to the same class ; and a cultivating verumpattamdar and a non-cultivating verumpattamdar belong to the same class.

Illustration.—If *A* is the janmi, *B* and *C* are kanamdar and sub-kanamdar and *D*, verumpattamdar cultivating the land, if *A* the janmi exercises his power to take the land for his own use and then inducts some other tenant into it within six years, *B* shall be entitled to claim as against *A* to be restored to his previous rights. But on *B* getting such restoration, *C* shall be entitled to claim as against *B* to step in as sub-kanamdar, and *D* shall be entitled to claim the

(Chapter VII.—Miscellaneous.)

verumpattamdar's rights as against *C*. If, however, *B* does not want to claim restoration, *C* shall be entitled to claim as against *A* to be put in the position of *B* the kanamdar, and *D* shall be entitled to claim as against *C* to be treated as his cultivating verumpattamdar. If both *B* and *C* do not claim restoration, *D* shall be entitled to claim as against *A* to be a verumpattamdar on the terms on which he held the land under *C*.

44. A kanamdar or kuzhikanamdar or customary verumpattamdar who has obtained a renewal or a cultivating verumpattamdar may, at the end of any agricultural year, surrender his holding to his immediate landlord, by a registered document. Surrender of holdings.

Such a landlord shall not be bound to accept the surrender unless notice has been given in writing to him by the tenant of his intention to do so three months prior to the date of the expiry of the agricultural year, and unless it be in respect of the entire holding, and the whole of the arrears of the michavaram or rent is also tendered at the time of the surrender. Nor shall the landlord be bound to refund the kanartham or to pay the value of the improvements which he would have been otherwise bound to pay under the Improvements Act.

45. If (1) a cultivating kanamdar who consents to be redeemed or (2) a cultivating customary verumpattamdar who gives up his rights as such, desires to continue on the holding as a cultivating verumpattamdar, the provisions of this Act shall apply to him as if he were a cultivating verumpattamdar. Applicability of Act to redeemed kanamdar, etc.

46. Every deed by which a lease, kanam or kuzhikanam is created or renewed and its counterpart shall contain— Contents of lease, kanam or kuzhikanam deeds.

- (a) the name, if any, and description and extent of the holding ;
- (b) the Government revenue and local cesses, if any, payable in respect of the holding ;
- (c) the amount of rent or michavaram payable in respect of the holding ;
- (d) the relation that any *para* or other measure according to which the rent or michavaram has to be paid, bears to the capacity of the Macleod seer ;
- (e) if it is a kanam deed,
 - (i) the kanartham ;
 - (ii) the rate or the amount of interest payable in respect of the said kanartham ; and
- (f) the renewal fee, if any, levied, and in case no such fee was levied, a statement to that effect.

(Chapter VII.—Miscellaneous.)

Tenant's right to obtain receipts and forms of such receipts.

47. (1) Every tenant paying any rent or michavaram shall be entitled to receive and the landlord shall be bound to grant a receipt specifying

- (a) a description of the holding in respect of which it was paid ;
- (b) the date of payment ;
- (c) the amount paid ;
- (d) the period to which the amount paid relates ; and
- (e) the arrears, if any, remaining due from the tenant after the said payment.

A reference to the date and registration number of the document under which the holding is held and also the name of the sub-registration district in which the said holding is situate, shall be deemed to be a sufficient description of the holding for the purpose of this sub-section.

(2) In the absence of the particulars specified in clause (e) of sub-section (1), the burden of proving that the tenant is bound to pay any arrears of rent or michavaram which had accrued previous to the date of the receipt, shall be on the person claiming such arrears.

(3) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,

- (i) the money, if the rent or michavaram is payable in money, and
- (ii) the money value of the rent or michavaram, if it is payable in kind.

Stamp and registration fees to be paid by the tenant.

48. The stamp and registration charges for any lease or kanam or kuzhikanam deed and for the counterpart of such lease, kanam or kuzhikanam shall be borne by the tenant.

Improvements Act to apply to evictions under Act.

49. The provisions of the Improvements Act shall apply in all cases of eviction to which this Act applies.

Code of Civil Procedure, 1908, to apply to proceedings under Act.

50. (1) The procedure provided as regards suits in the Code of Civil Procedure, 1908, including Orders XXXVIII, v XXXIX and XL of the first schedule, shall be followed as far as it can be made applicable in all proceedings relating to applications under this Act.

Appeals.

(2) Appeals shall lie from orders made under sections 12, 23, 25, 30, 31, 34, 35 and 36, as if they were decrees in suits.

Collector to publish list of prices.

51. (1) The Collector of the district shall in the month of April of every year publish in the *Malabar District Gazette* the average market price of paddy, coconut, arecanut and pepper, at each taluk headquarters, for the twelve complete months preceding the date of publication.

(Chapter VII.—Miscellaneous.)

(2) Where any rent, michavaram or renewal fee payable under this Act is paid or is to be paid in money, in whole or in part, paddy, coconuts, arecanuts and pepper, shall be valued, for the purpose of determining the sum due, at the average market price of the previous five years as published under sub-section (1).

52. Where the rent is payable in kind, it shall, in the absence of a contract to the contrary, be delivered at the landlord's granary in the village in which the holding is situated, or at such other granary within three miles of the village as may be provided in that behalf by the landlord.

Place of
delivery of
rent payable
in kind.

53. Nothing in this Act shall affect the right of a janmi in any of his holdings—

- (1) to make irrigation channels, foot-paths, roads and ways into adjacent and other holdings,
- (2) to work laterite and other quarries, and
- (3) to cut and remove the trees or enjoy the usufruct of trees and pepper vines belonging to him.

Provided that the tenant shall be entitled to a proportionate reduction of michavaram or rent if by the exercise of such right his profits are decreased.

54. (1) The ¹ [Provincial Government] may make rules to carry out all or any of the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, they may make rules regulating all or any of the following matters :—

- (a) The investing of courts of original jurisdiction with powers to try summarily suits for the recovery of rent or michavaram and the procedure to be followed in such suits ;
- (b) the period of limitation for applications under this Act for which no period is specifically fixed therein.

(3) All rules made under this section shall be placed on the table of ² [each of the Chambers of the Provincial Legislature] while ³ [that Chamber] is in session for a period of not less than three months before they come into force.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " the Legislative Council " by Schedule II, *ibid.*

³ These words were substituted for the word " it " by *ibid.*

(Schedule.)

MADRAS ACT No. I OF 1931.¹

[THE MADRAS AMENDING ACT, 1930.]

[27th January 1931.]

An Act to amend certain enactments.

Preamble. WHEREAS it is expedient that certain amendments should be made in the enactments specified in the schedule ;
It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Amending Act, 1930.

Amendment of certain enactments. 2. The enactments specified in the schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

SCHEDULE.

[See Section 2.]

AMENDMENTS.

Year.	Number.	Short title.	Amendments.
(1)	(2)	(3)	(4)
1929	VI	The Andhra University (Amendment) Act, 1929.	For section 1, the following section shall be substituted, namely :— “ 1. This Act may be called the Andhra University (Second Amendment) Act, 1929.” Short title.
1929	XVI	The Andhra University (Amendment) Act, 1929.	For section 1, the following section shall be substituted, namely :— “ 1. This Act may be called the Andhra University (Third Amendment) Act, 1929.” Short title.
1930	XII	The Andhra University (First Amendment) Act, 1929.	For section 1, the following section shall be substituted, namely :— “ 1. This Act may be called the Andhra University (Second Amendment) Act, 1930.” Short title.
1930	XIII	The Andhra University (Third Amendment) Act, 1929.	For section 1, the following section shall be substituted, namely :— “ 1. This Act may be called the Andhra University (Third Amendment) Act, 1930.” Short title.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 4th November 1930—Part IV, page 441.

THE MADRAS MOTOR VEHICLES TAXATION
ACT, 1931.

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MADRAS ACT No. III OF 1931¹.

[THE MADRAS MOTOR VEHICLES TAXATION ACT, 1931.]

[31st March 1931.]

Preamble. WHEREAS it is expedient to abolish within the Presidency of Madras the levy of all tolls existing at the time of the commencement of this Act ;

AND WHEREAS it is expedient to abolish the levy of taxes on motor vehicles by local bodies within the said Presidency ;

AND WHEREAS it is also expedient to provide for the levy of a provincial tax on motor vehicles in the said Presidency ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Motor Vehicles Taxation Act, 1931.

(2) It extends to the whole of the Presidency of Madras.

(3) It shall come into force on such* date as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], appoint.

Definitions.

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

' Licensing officer.'

(i) ' licensing officer ' means an officer appointed by the ² [Provincial Government] to exercise the powers and perform the functions of a licensing officer under this Act ;

' Local body.'

(ii) ' local body ' means the Corporation of Madras or a municipal council or a district board ⁴ [or a cantonment authority] constituted under any enactment for the time being in force ;

' Motor vehicle.'

(iii) ' motor vehicle ' has the same meaning as in the Indian Motor Vehicles Act, 1914 ;

[and ' motor lorry ' includes a goods vehicle, that is to say, a motor vehicle constructed or adapted for use for the carriage of goods or a motor vehicle not so constructed or adapted which is habitually used for the carriage of goods and not of passengers.

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1914.

¹For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 20th January 1931, pages 14–15 ; for Report of the Select Committee see *ibid.*, dated 17th February 1931, pages 25–32 ; for Proceedings in Council, see Madras Legislative Council Proceedings, Volume LV, pages 48–55, 328–386, 394–414.

²These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

⁴These words were inserted by section 2 (1) of the Madras Motor Vehicles Taxation (Amendment) Act, 1931 (Madras Act X of 1931). This amendment should be read and construed as if it had formed part of the Principal Act from its commencement—vide section 2 (2), *ibid.*

⁵This was added by section 9 (i) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

* Came into force on the 1st April 1931.

Explanation.—The expression ‘ goods ’ includes merchandise, wares, burden of any description and movable property other than personal luggage.]

(iv) ‘ prescribed ’ means prescribed by the ¹[Provincial ‘ Pre-scribed.’ Government] by rules made under this Act ;

² [(iv-a) ‘ public road ’ means any street, road, square, ‘ Public court, alley, passage or riding path over which the road.’ public have a right of way, whether a thoroughfare or not, and includes the roadway over any public bridge or causeway ;]

(v) ‘ registered owner ’ means the person in whose ‘ Registered name a motor vehicle is registered under the Indian owner.’ Motor Vehicles Act, 1914 ;

(vi) ‘ tax ’ means the tax leviable under sub-section (1) ‘ Tax.’ of section 4 ;

(vii) ‘ trailer ’ means any vehicle other than a sidecar ‘ Trailer.’ drawn or propelled or intended to be drawn or propelled by motor vehicle ;

³ [(viii-a) ‘ laden weight ’ in relation to a motor vehicle ‘ Laden weight.’ means, in case a permit is issued to the vehicle in pursuance of the rules made by the Provincial Government under the Indian Motor Vehicles Act, 1914, the maximum laden weight specified in such permit, if no such permit is issued, the maximum laden weight specified in the registration certificate of the vehicle, and if such weight is not specified in such certificate, the maximum laden weight of the vehicle determined in such manner as the licensing officer may deem fit ;

‘ laden weight ’ in relation to a trailer means, in case a permit is issued to the vehicle to which the trailer is attached in pursuance of the rules made by the Provincial Government under the Indian Motor Vehicles Act, 1914, the maximum laden weight specified in such permit in respect of the trailer, if no such permit is issued, the maximum laden weight specified in respect of the trailer in the registration certificate of the vehicle to which the trailer is attached, and if such weight is not specified in such certificate, the maximum laden weight of the trailer determined in such manner as the licensing officer may deem fit ;]

⁴ [(viii-b)] ‘ unladen weight ’ in relation to a motor vehicle ‘ Unladen weight.’ or trailer, means the weight of the vehicle or trailer

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Clause (iv-a) was added by section 2 (i) of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

³ Clause (viii-a) was inserted by section 9 (ii) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

⁴ Original clause (viii) was renumbered as clause (viii-b) by *ibid.*

Act VIII of
1914.

VIII of
1914.

VIII of
1914.

including all ¹ [parts and equipment], which are necessary for and ordinarily used with the vehicle or trailer when working. Where alternative parts or bodies are used, the heaviest part or body shall be taken into account for the purpose of calculating the unladen weight ; and

' Year '
' Half-year.'
' Quarter.'

(ix) ' year ' means the financial year ; ' half-year ' means the first six months or the second six months of such year ; and ' quarter ' means the first three months or the second three months of such half-year.

² [3. * * * * *]

Imposition
of a tax on
motor
vehicles.

4. (1) The ³ [Provincial Government] may, by notification in the ⁴ [Official Gazette], from time to time direct that a tax shall be levied on every motor vehicle ⁵ [using any public road in the Presidency of Madras].

(2) The notification issued under sub-section (1) shall specify the rates at which, and the quarter from which, the tax shall be levied :

Provided that the rates shall not exceed the maxima specified in Schedule II.

⁶ [* * * * *]

Payment of
tax and
issue of
licence.

5. ⁷ [(1) (a) The tax levied in pursuance of a notification issued under sub-section (1) of section 4 shall be paid by the registered owner or person having possession or control of the motor vehicle, at his choice, either quarterly, half-yearly or annually, upon a quarterly, half-yearly or annual licence to be taken out by him.

Explanation.—The tax for a half-yearly licence shall not exceed twice and the tax for an annual licence shall not exceed four times the tax for a quarterly licence. The ³[Provincial Government] shall have power to grant a suitable rebate in case of the half-yearly and annual licences.

¹ These words were substituted for the words ' parts, equipment, stores, fuel, oil and water ' by section 2(ii) of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

² Section 3 was repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

³ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words " Fort St. George Gazette " by *ibid.*

⁵ These words were substituted for the words " kept or used in the Presidency of Madras " by section 3 (i) of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

⁶ The second proviso was omitted by section 3 (ii), *ibid.*

⁷ Sub-section (1) was substituted for the original sub-section by section 2 (1) of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

(b) Where the tax for any motor vehicle has been paid for any quarter, half-year or year and the vehicle has not been used during the whole of that quarter, half-year or year or a continuous part thereof not being less than one month, a refund of the tax at such rates as may, from time to time, be notified by the ¹[Provincial Government], shall be payable subject to such conditions as may be specified in such notification.

(c) Notwithstanding anything contained in section 4 or in clauses (a) and (b), the ¹[Provincial Government] may, by notification in the ²[Official Gazette], from time to time, direct that a temporary licence for a period not exceeding thirty days at a time may be issued in respect of any class of motor vehicles on payment of such tax (not exceeding the maximum specified in Schedule III) and subject to such conditions, as may be specified in such notification.

(d) No motor vehicle shall be used on any public road in the Presidency of Madras at any time after the issue of a notification under sub-section (1) of section 4, unless a licence permitting such use during such time has been obtained under clause (a) or clause (c).]

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to tax during any ³[period] on account of any taxable motor vehicle, ⁴[the tax due in respect of which for the same ³(period)] has already been paid by some other person.

(3) ⁵[(a) When any person pays the amount of tax due in respect of a motor vehicle using any public road in the Presidency of Madras or proves to the satisfaction of the licensing officer that no tax is payable in respect of such vehicle, the licensing officer shall—

(i) grant to such person a licence, in such form as may be notified by the ¹[Provincial Government] to use the vehicle on public roads in the Presidency of Madras for the ⁶(period) concerned ; and

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

³ This word was substituted for the word " quarter " by section 2 (2) of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

⁴ These words were substituted for the words " in respect of which the full tax for the same quarter " by section 4 (ii) of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

⁵ Clause (a) of sub-section (3) was substituted for the original by section 4 (iii), *ibid.*

⁶ This word was substituted for the words " quarter or quarters " by section 2(3) (i) of the Madras Motor Vehicles Taxation (Amendment) Act 1936 (Madras Act XXIV of 1936).

(ii) ¹ [in the case referred to in clause (a) of sub-section (1)] record that the tax has been paid for a specified ² [period] or that no tax is payable in respect of the vehicle, as the case may be, in the certificate of registration granted or renewed in respect of the vehicle under the rules made by the ³ [Provincial Government] under the Indian Motor Vehicles Act, 1914, or in the case of vehicles ^{VIII of} not registered under the said rules, in a certificate ^{1914.} in such form as may be notified by the ⁴ (Provincial Government)].

(b) Every licence granted under clause (a) shall be valid throughout the Presidency of Madras.

Carriage of
licence on
vehicle and
duty to stop
it on
demand by
police
officer.

⁴ [6. (1) The licence granted in respect of a motor vehicle under clause (a) of sub-section (3) of section 5 shall be carried in a conspicuous place upon the vehicle in such manner as may be notified by the ³ [Provincial Government] and if such a licence is not so carried upon such vehicle, the registered owner or the person having possession or control thereof shall be punishable with fine which may extend to fifty rupees.

(2) Any police officer in uniform who is not below the rank of sub-inspector or who being below such rank is specially authorized in this behalf by the Commissioner of Police in the City of Madras and by the District Magistrate elsewhere, may require the driver of any motor vehicle on any public road to stop the vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that a ⁵ [licence has been duly obtained in respect of such vehicle].

(3) Any person failing to stop a motor vehicle when required to do so by a police officer under sub-section (2) or resisting such officer shall be punishable with fine which may extend to fifty rupees.]

Penalty for
failure to
pay tax.

7. If the tax due in respect of any motor vehicle has not been paid, the registered owner or the person having possession or control thereof shall be punishable with fine which

¹ These words, letter, figure and brackets were inserted by section 2(3) (ii) of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

² This word was substituted for the words "quarter or quarters" by *ibid.*

³ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ Section 6 was substituted for the original by section 5 of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

⁵ These words were substituted for the words "licence has been obtained in respect of such vehicle for the quarter then current" by section 3 of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

may extend to fifty rupees ; and the amount of the tax due by him in respect of such vehicle ¹ [for the quarter or quarters concerned] shall also be recovered as if it were a fine.

² [8. * * * * *]

9. Any tax due under this Act may also be recovered in the same manner as an arrear of land revenue. ³ [The motor vehicle in respect of which the tax is due or its accessories may be distrained and sold in pursuance of this section, whether or not such vehicle or accessories are in the possession or control of the person liable to pay the tax.] Recovery of tax as an arrear of land revenue.

10. ⁴[(1) (a) From the proceeds of the tax collected under this Act every year, the following credits and payments shall be made in the order mentioned below :— Utilization of the proceeds of the tax.

- (i) *Firstly*, there shall be credited to the Provincial Government the expenses of collecting the tax.
- (ii) *Secondly*, there shall be credited to the Provincial Government the cost incurred by them in exercising their administrative functions in regard to the control of motor vehicles in the Province.
- (iii) *Thirdly*, there shall be credited to the Provincial Government a sum equivalent to the average annual income derived by them during the three years ending on the 31st day of March immediately preceding the commencement of the Madras Traffic Control Act, 1938, from additional fees levied under the Indian Motor Vehicles Act, 1914, on motor vehicles plying on Government roads in the Province.
- (iv) *Fourthly*, there shall be paid to each district board and to each municipal council a sum equivalent to the average annual income derived by such board or council during the three years ending on the 31st day of March immediately preceding the commencement of the Madras Traffic Control Act, 1938, from fees on licences granted to motor vehicles under section 166 of the Madras Local Boards Act, 1920, or section 174-A of the Madras District Municipalities Act, 1920, as the case may be.
- (v) *Fifthly*, there shall be paid to each local body which at the commencement of this Act was levying tolls or vehicle tax on motor vehicles or both,

VIII of 1914.

Madras Act XIV of 1920.
Madras Act V of 1920.

¹ These words were inserted by section 4 of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

² Section 8 was omitted by section 6 of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

³ This sentence was added by section 7, *ibid.*

⁴ This sub-section was substituted for the original sub-section (1) by section 9 (iii) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

a sum equivalent to the average annual income derived by such local body during the three years ending on the 31st day of March 1931, from such tolls or vehicle tax on motor vehicles, or both, as the case may be, and there shall also be credited to the Provincial Government a sum equivalent to their average annual income during the said three years from all tolls levied by them in the Province.

(b) The Provincial Government shall determine the sums which should be credited to themselves or paid to local bodies under sub-clauses (i) to (v) of clause (a), and their determination shall be final.]

(2) In determining the amount payable to a local body under ¹ [sub-clause (v) of clause (a) of sub-section (1)], the ² [Provincial Government] shall take into account—

(a) the arrears of tolls or vehicle tax on motor vehicles left uncollected, which could have been collected ;

(b) the amounts which the local body should have paid to any other local body on account of collections made on behalf of the latter and remaining to be adjusted ; and

(c) the vehicle tax payable on vehicles owned by the local body or by its employees in respect of which exemptions were granted by the local body.

³ [(3) If in any year the proceeds of the tax after deducting the sums referred to in sub-clauses (i) to (iv) of clause (a) of sub-section (1) fall short of the aggregate of the sums payable to local bodies under sub-clause (v) of the said clause (a) and the sum creditable to the Provincial Government under the same sub-clause, such proceeds shall be distributed among the local bodies and the Provincial Government proportionately to the sums determined under clause (b) of sub-section (1) as payable to each such local body and as creditable to the Provincial Government under sub-clause (v) aforesaid, and the deficit shall be made good in the same proportion in the earliest subsequent year or years in which there may be a surplus.]

⁴ [(4) All sums payable to local bodies under this section shall be expenditure charged on the revenues of the Province.]

¹ This expression was substituted for the expression " sub-section (1) " by section 9 (iv) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This sub-section was substituted for the original sub-section (3) by section 9 (v) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

⁴ The original sub-section (4) was omitted by the Government of India (Adaptation of Indian Laws) Order, 1937 and the present sub-section was added by section 2 of the Madras Motor Vehicles Taxation (Amendment) Act, 1938 (Madras Act III of 1938).

11. (1) The ¹ [Provincial Government] may by notification in the ² [Official Gazette] make an exemption, reduction in the rate or other modification in regard to the tax payable Exemptions.

(i) by any person or class of persons, or

(ii) in respect of any motor vehicle or class of motor vehicles ³ [or motor vehicles running in any particular area.]

(2) Every notification issued under sub-section (1) shall be laid on the table of the Legislative ⁴ [Assembly] for a period of two months when the ⁴ [Assembly] is in session.

11-A. Nothing in this Act shall apply to a motor vehicle used solely for the purposes of agriculture. Saving as to vehicles used for agricultural purposes.

Explanation.—A motor vehicle used for transporting agricultural produce ⁵ [. . .] shall not for the purpose of this section be deemed to be used solely for the purposes of agriculture.

⁶ [12. * * * * *]

13. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Protection in respect of acts done in good faith.

⁷ [14. * * * * *]

15. (1) Where, before the commencement of this Act, the collection of the tolls leviable at any toll station or toll stations under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, or the Indian Tolls Act, 1851, has been leased out to any person and the lease relates wholly or in part to any period subsequent to the commencement of this Act, the amount which the lessee has contracted to pay to the local body concerned, or to the ¹ [Provincial Government] shall be reduced by the amount of the loss suffered by him in consequence of this Act having come into force. Modification of leases executed before Act.

Madras Act IV of 1919.
Madras Act V of 1920.
Madras Act XIV of 1920.
Act VIII of 1851.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " Fort St. George Gazette " by *ibid.*

³ These words were added by section 9 (viii) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

⁴ This word was substituted for the word " Council " by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ The words " along a road " were omitted by section 8 of the Madras Motor Vehicles Taxation (Amendment) Act, 1932 (Madras Act V of 1932).

⁶ Section 12 was omitted by section 9, *ibid.*

⁷ Section 14 was omitted by section 4 of the Madras Tolls and Motor Vehicles Taxation (Amendment) Act, 1938 (Madras Act VI of 1938).

(2) If the lessee and the local body concerned are unable to agree as to the amount of such loss or if any other dispute arises between them as to the effect of this Act on the contract of lease, such dispute shall be referred to the Collector of the district; and any such dispute arising between the ¹[Provincial Government] and their lessee under the Indian Tolls Act, 1851, shall be decided by the ¹[Provincial Government]. The ¹[Provincial Government], as the case may be, shall be final unless the same is questioned in any Court of Law within a period of three months. Act VIII of 1851.

Trial of offences.

15-A. No Court inferior to that of a second-class Magistrate shall try any offence punishable under this Act.

Power of Provincial Government to make rules.

16. (1) The ¹[Provincial Government] may make rules for carrying out all or any of the purposes of this Act.

(2) Any rule made under sub-section (1) may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

(3) All rules made under this section shall be laid on the table of the Legislative ²[Assembly].

Power of Provincial Government to amend Schedule II or Schedule III.

17. (1) The ¹[Provincial Government] may make rules amending Schedule II ³[or Schedule III].

(2) All references in this Act to Schedule II ³[or Schedule III] shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

(3) A draft of any rule proposed to be made under this section shall be laid on the table of the Legislative ²[Assembly] and the rule shall not be made, unless the ²[Assembly] approves the draft either without modification or addition or with modifications or additions; and upon such approval being given, the rule may be made in the form in which it has been approved, and such rule, on being so made, shall be published in the ⁴[Official Gazette], and shall thereafter be of full force and effect.

⁵ [SCHEDULE I . . .]

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This word was substituted for the word " Council " by Schedule II, *ibid.*

³ These words and figures were inserted by section 5 of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

⁴ These words were substituted for the words " *Fort St. George Gazette* " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ Schedule I was repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

(Schedule II.)

SCHEDULE II.

Classes of vehicles.	Maximum quarterly tax.					
	For vehicles fitted with pneumatic tyres.			For other vehicles.		
	RS.	A.	P.	RS.	A.	P.
¹ [1. Motor cycles (including motor scooters and cycles with attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight unladen—						
(a) Bicycles below 3½ horse-power if not used for drawing a trailer or side-car ..	7	8	0	10	0	0
(b) Bicycles below 3½ horse-power if used for drawing a trailer or side-car and bicycles of and above 3½ horse-power whether used for drawing a trailer or side-car or not	10	0	0	12	8	0
(c) Tricycles	10	0	0	12	8	0]
2. Motor vehicles not exceeding 5 cwt. in weight unladen, adapted and used for invalids ..	7	8	0	10	0	0
² [3. Motor lorries—						
(a) Lorries not exceeding 20 cwt. in weight, laden	50	0	0	75	0	0
(b) Lorries exceeding 20 cwt. but not exceeding 30 cwt. in weight, laden	100	0	0	150	0	0
(c) Lorries exceeding 30 cwt. but not exceeding 45 cwt. in weight, laden	120	0	0	180	0	0
(d) Lorries exceeding 45 cwt. but not exceeding 60 cwt. in weight, laden	150	0	0	225	0	0
(e) Lorries exceeding 60 cwt. but not exceeding 85 cwt. in weight, laden	180	0	0	270	0	0
(f) Lorries exceeding 85 cwt. but not exceeding 110 cwt. in weight, laden	220	0	0	330	0	0
(g) Lorries exceeding 110 cwt. but not exceeding 150 cwt. in weight, laden	270	0	0	405	0	0
(h) Lorries exceeding 150 cwt. but not exceeding 180 cwt. in weight, laden	320	0	0	480	0	0
(i) Lorries exceeding 180 cwt. in weight, laden.	350	0	0	525	0	0
(j) Additional tax payable in respect of lorries used for drawing trailers—						
(i) for each trailer not exceeding 20 cwt. in weight, laden	20	0	0	30	0	0
(ii) for each trailer exceeding 20 cwt. but not exceeding 60 cwt. in weight, laden	75	0	0	112	8	0
(iii) for each trailer exceeding 60 cwt. in weight, laden	150	0	0	225	0	0
Provided that two or more lorries shall not be chargeable under this clause in respect of the same trailer.						
4. Motor vehicles plying for hire and used for the transport of passengers—						
(a) Vehicles licensed under the rules made by the Provincial Government under the Indian Motor Vehicles Act, 1914, to carry in all not more than five persons	80	0	0	120	0	0

¹ These entries were substituted for the original entries by Notification No. 309, L. & M., dated 20th March 1933, published at pages 97 and 98 of Part I-A of the *Fort St. George Gazette*, dated 21st March 1933.

² These items were substituted for the original items 3 and 4 by section 9 (vi) of the Madras Traffic Control Act, 1933 (Madras Act V of 1933).

Motor Vehicles Taxation [1931 : Mad. Act III
(Schedule II. Schedule III.)

SCHEDULE II—cont.

Classes of vehicles.	Maximum quarterly tax.			
	For vehicles fitted with pneumatic tyres.		For other vehicles.	
	RS.	A. P.	RS.	A. P.
4. Motor vehicles plying for hire and used for the transport of passengers—cont.				
(b) Vehicles licensed under the rules made by the Provincial Government under the Indian Motor Vehicles Act, 1914, to carry more than five persons—for every person which the vehicle is so licensed to carry excluding the driver and the conductor . . .	20	0 0	30	0 0]
5. Motor vehicles other than those liable to tax under the foregoing provisions of this schedule—				
(a) Weighing not more than 15 cwt., unladen	17	8 0	25	0 0
(b) Weighing more than 15 cwt., but not more than 30 cwt., unladen	25	0 0	37	8 0
(c) Weighing more than 30 cwt., but not more than 45 cwt., unladen	32	8 0	50	0 0
(d) Weighing more than 45 cwt., but not more than 60 cwt., unladen	40	0 0	60	0 0
(e) Weighing more than 60 cwt., unladen	50	0 0	75	0 0
(f) Additional tax payable in respect of such vehicles used for drawing trailers—				
(i) for each trailer not exceeding one ton in weight, unladen	10	0 0	15	0 0
(ii) for each trailer exceeding one ton in weight, unladen	20	0 0	30	0 0

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.

¹ [SCHEDULE III.

[See section 5 (1) (c).]

Classes of vehicles.	Maximum tax for vehicles fitted with pneumatic tyres.		Maximum tax for other vehicles.	
	(2)	(3)	(4)	(5)
(1)	RS.	A. P.	RS.	A. P.
1. Motor cycles (including motor scooters and cycles with attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight, unladen—				
(a) Bicycles	1 4 0	3 12 0	1 12 0	5 0 0
(b) Bicycles if used for drawing a trailer or side car.	1 12 0	5 0 0	2 4 0	6 4 0
(c) Tricycles	1 12 0	5 0 0	2 4 0	6 4 0
2. Motor vehicles not exceeding 5 cwt. in weight, unladen, adapted and used for invalids.	1 4 0	3 12 0	1 12 0	5 0 0
² [3. Motor lorries—				
(a) Lorries not exceeding 20 cwt. in weight, laden.	8 8 0	25 0 0	12 8 0	37 8 0
(b) Lorries exceeding 20 cwt. but not exceeding 30 cwt. in weight, laden.	16 12 0	50 0 0	25 0 0	75 0 0

¹ This schedule was added by section 6 of the Madras Motor Vehicles Taxation (Amendment) Act, 1936 (Madras Act XXIV of 1936).

² These items were substituted for the original items 3 and 4 by section 9 (vii) of the Madras Traffic Control Act, 1938 (Madras Act V of 1938).

SCHEDULE III—cont.

Classes of vehicles. (1)	Maximum tax for vehicles fitted with pneumatic tyres.		Maximum tax for other vehicles.	
	For a period not exceeding seven days.	For a period exceeding seven days but not exceeding thirty days.	For a period not exceeding seven days	For a period exceeding seven days but not exceeding thirty days.
	(2)	(3)	(4)	(5)
	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.
3. Motor lorries—cont.				
(c) Lorries exceeding 30 cwt but not exceeding 45 cwt. in weight, laden.	20 0 0	60 0 0	30 0 0	90 0 0
(d) Lorries exceeding 45 cwt. but not exceeding 60 cwt. in weight, laden.	25 0 0	75 0 0	37 8 0	112 8 0
(e) Lorries exceeding 60 cwt. but not exceeding 85 cwt. in weight, laden.	30 0 0	90 0 0	45 0 0	135 0 0
(f) Lorries exceeding 85 cwt but not exceeding 110 cwt. in weight, laden.	36 12 0	110 0 0	55 0 0	165 0 0
(g) Lorries exceeding 110 cwt. but not exceeding 150 cwt. in weight, laden.	45 0 0	135 0 0	67 8 0	202 8 0
(h) Lorries exceeding 150 cwt. but not exceeding 180 cwt. in weight, laden.	53 8 0	160 0 0	80 0 0	240 0 0
(i) Lorries exceeding 180 cwt. in weight, laden.	58 8 0	175 0 0	87 8 0	262 8 0
(j) Additional tax payable in respect of lorries used for drawing trailers—				
(i) for each trailer not exceeding 20 cwt. in weight, laden.	3 3 0	10 0 0	5 0 0	15 0 0
(ii) for each trailer exceeding 20 cwt. but not exceeding 60 cwt. in weight, laden.	12 8 0	37 8 0	18 12 0	56 4 0
(iii) for each trailer exceeding 60 cwt. in weight, laden.	25 0 0	75 0 0	37 8 0	112 8 0
Provided that two or more lorries shall not be chargeable under this clause in respect of the same trailer.				
4. Motor vehicles plying for hire and used for the transport of passengers—				
(a) Vehicles licensed under the rules made under the Indian Motor Vehicles Act, 1914, to carry in all not more than four persons.	13 8 0	40 0 0	20 0 0	60 0 0
(b) Vehicles licensed under the rules made under the Indian Motor Vehicles Act, 1914, to carry more than four persons—for every person which the vehicle is so licensed to carry.	3 8 0	10 0 0	5 0 0	15 0 0]
5. Motor vehicles other than those liable to tax under the foregoing provisions of this schedule—				
(a) Weighing not more than 15 cwt. unladen.	3 0 0	8 12 0	4 4 0	12 8 0
(b) Weighing more than 15 cwt. but not more than 30 cwt., unladen.	4 4 0	12 8 0	6 4 0	18 12 0
(c) Weighing more than 30 cwt. but not more than 45 cwt., unladen.	5 8 0	16 4 0	8 8 0	25 0 0

East and West Tanjore Sessions
Divisions (Validation). [1931 : Mad. Act VI
(Schedule III.)

SCHEDULE III—*cont*

Classes of vehicles. (1)	Maximum tax for vehicles fitted with pneumatic tyres.		Maximum tax for other vehicles.	
	For a period not ex- ceeding seven days.	For a period exceed- ing seven days but not exceeding thirty days.	For a period not ex- ceeding seven days.	For a period exceed- ing seven days, but not exceeding thirty days.
	(2)	(3)	(4)	(5)
	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.
5. Motor vehicles other than those liable to tax under the forego- ing provisions of this schedule — <i>cont.</i>				
(d) Weighing more than 45 cwt. but not more than 60 cwt., unladen.	6 12 0	20 0 0	10 0 0	30 0 0
(e) Weighing more than 60 cwt, unladen.	8 8 0	25 0 0	12 8 0	37 8 0
(f) Additional tax payable in respect of such vehicles used for drawing trailers—				
(i) for each trailer not exceeding one ton in weight, unladen ; and	1 12 0	5 0 0	2 8 0	7 8 0
(ii) for each trailer exceeding one ton in weight, unladen.	3 8 0	10 0 0	5 0 0	15 0 0
Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.]				

MADRAS ACT No. VI OF 1931.¹

[THE EAST AND WEST TANJORE SESSIONS DIVISIONS
(VALIDATION) ACT, 1931.]

[14th April 1931.]

An Act to validate the constitution of the sessions
divisions of East and West Tanjore.

WHEREAS by the notification of the Local Government in the Law (General) Department, No. 175, dated the 22nd day of June 1921, the Governor in Council was pleased to direct that, with effect from the 1st day of September 1921, the Sessions division of Tanjore should be styled as the Sessions division of West Tanjore consisting of the revenue taluks of Kumbakonam, Papanasam, Tanjore, Mannargudi, Pattukkottai and Arantangi of the collectorate or revenue district of Tanjore ;

AND WHEREAS by the notification of the Local Government in the Law (General) Department, No. 177, dated the 22nd day of June 1921, the Governor in Council was pleased to

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 13th January 1931—Part IV, page 2.

1931 : Mad. Act X] *Motor Vehicles Taxation (Amendment)*

add to the number of Sessions divisions in the province by establishing, with effect from the 1st day of September 1921, a new Sessions division styled as the Sessions division of East Tanjore, consisting of the revenue taluks of Shiyali, Mayavaram, Nannilam, Negapatam and Tiruturaipundi of the collectorate or revenue district of Tanjore ;

AND WHEREAS doubts have been raised as to the validity of the constitution of the said two Sessions divisions in the revenue district of Tanjore ;

AND WHEREAS it is expedient to remove those doubts and validate the constitution of the said Sessions divisions and the proceedings of the Courts of Session thereof ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the East and West Tanjore Sessions Divisions (Validation) Act, 1931. Short title.

2. This Act shall be deemed to have had effect on and from the 1st day of September 1921. Commencement.

V of 1898.

3. Notwithstanding anything contained in sub-section (1) of section 7 of the Code of Criminal Procedure, 1898, the Sessions division of East Tanjore and the Sessions division of West Tanjore in the revenue district of Tanjore and the Courts of Session established for each one of the said Sessions divisions shall be deemed to have been and to be validly constituted and no proceeding of the Courts of Session of the said Sessions divisions shall be questioned merely on the ground that the limits of neither of the said Sessions divisions were or are continuous with the limits of a district. Validation of the constitution of the Sessions divisions of East and West Tanjore and of the proceedings of the Courts of Session thereof.

MADRAS ACT No. X OF 1931.¹

[THE MADRAS MOTOR VEHICLES TAXATION (AMENDMENT) ACT, 1931.]

[13th October 1931.]

An Act to amend the Madras Motor Vehicles Taxation Act, 1931, for a certain purpose.

Madras Act III of 1931.

WHEREAS it is expedient to amend the Madras Motor Vehicles Taxation Act, 1931, for the purpose hereinafter appearing ; Preamble.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Madras Motor Vehicles Taxation (Amendment) Act, 1931. Short title.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 28th July 1931—Part IV, page 117.

*Gudalur Compensation for Tenants
Improvements* [1931 : Mad. Act XII

Amendment
of section 2,
Madras Act
III of 1931.

2. (1) In clause (ii) of section 2 of the Madras Motor Vehicles Taxation Act, 1931, hereinafter referred to as the said Act after the words 'a district board' the words 'or a cantonment authority' shall be inserted.

(2) The said Act shall be read and construed as if the amendment hereby enacted had formed part of the said Act from its commencement.

MADRAS ACT No. XII OF 1931.¹

[THE GUDALUR COMPENSATION FOR TENANTS IMPROVEMENTS
ACT, 1931.]

[20th October 1931.]

An Act to extend the Malabar Compensation for Tenants Improvements Act, 1899, with certain modifications, to the Gudalur taluk of the Nilgiri district.

Preamble.

WHEREAS it is expedient to extend the provisions of the Malabar Compensation for Tenants Improvements Act, 1899, with certain modifications, to the Gudalur taluk of the Nilgiri district; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—

Madras Act
I of 1900.

Short title
and extent.

1. (1) This Act may be called the Gudalur Compensation for Tenants Improvements Act, 1931.

(2) It extends to the whole of the Gudalur taluk of the Nilgiri district.

Extension of
sections 3 to
20 of Madras
Act I of 1900
to the
Gudalur
taluk of the
Nilgiri
district with
certain
modifica-
tions.

2. Sections 3 to 20 of the Malabar Compensation for Tenants Improvements Act, 1899 (hereinafter referred to as the said Act), shall apply to the Gudalur taluk of the Nilgiri district subject to the following modifications, namely :—

Madras Act
I of 1900.

(1) in section 8 of the said Act, for the word 'Malabar' the words 'the Nilgiri' shall be substituted;

(2) in section 14 and sub-section (1) of section 15 of the said Act, for the words 'Malabar district' the words 'Gudalur taluk of the Nilgiri district' shall be substituted;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 31st March 1931—Part IV, page 94.

- (3) in section 17 of the said Act, for the words 'and Malayalam' the words 'Malayalam and Tamil' and for the word 'Malabar' the words 'the Nilgiri' shall be substituted ;
- (4) in section 19 of the said Act, for the words and figures 'after the first day of January 1886' the words 'after the coming into force of this Act' shall be substituted ; and
- (5) in section 20 of the said Act, after the words 'construed as' the words 'entitling any person to claim compensation under the provisions of this Act for any improvements made before the coming into force of this Act or as' shall be inserted.

THE MADRAS CO-OPERATIVE SOCIETIES
ACT, 1932.

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(Preliminary.)

MADRAS ACT No. VI OF 1932.¹

[THE MADRAS CO-OPERATIVE SOCIETIES ACT 1932.]

[5th July 1932.]

An Act to consolidate and amend the law relating to co-operative societies in the Presidency of Madras.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Madras :

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

PRELIMINARY.

1. (1) This Act may be called the Madras Co-operative Societies Act, 1932. Short title and extent.
- (2) It extends to the whole of the Presidency of Madras.
2. In this Act, unless there is anything repugnant in the subject or context,—
 - (a) “by-laws” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws ; “By-laws.”
 - (b) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted ; “Committee.”
 - (c) “financing bank” means a registered society the main object of which is to lend money to other registered societies ; “Financing bank.”
 - (d) “member” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules ; “Member.”
 - (e) “officer” includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, treasurer, member of committee, and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society ; “Officer.”
 - (f) “registered society” means a society registered or deemed to be registered under this Act ; “Registered society.”
 - (g) “Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ; and “Registrar.”
 - (h) “rules” means rules made under this Act. “Rules.”

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 17th March 1931—Part IV, pages 71-72.

REGISTRATION.

“ The Registrar.” 3. The ¹[Provincial Government] may appoint a person to be Registrar of Co-operative Societies for the Presidency of Madras or any portion of it ²[. . .] and may, by general or special order, confer ³[on any other persons] all or any of the powers of a Registrar under this Act.

Societies which may be registered. 4. Subject to the provisions of this Act a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability :

Provided that unless the ¹[Provincial Government] by general or special order otherwise directs—

- (i) the liability of a society of which a member is a registered society shall be limited ; and
- (ii) the liability of a society of which the primary object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.

Change of liability. 5. (1) Subject to the proviso to section 4 and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited :

Provided that—

- (i) the society shall give notice in writing of its intention to change its liability to all its members and creditors ;
- (ii) any member or creditor shall, notwithstanding any by-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied ; and

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² The words “ and may appoint persons to assist such Registrar ” were omitted by section 3 of the Madras Co-operative Societies (Amendment) Act 1936 (Madras Act V of 1937).

³ These words were substituted for the words “ on any such persons ” by *ibid.*

(Registration.)

- (iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1) the change shall take effect at once if all the members and creditors assent thereto.

6. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules ; or
- (b) have or claim any interest in the shares of the society, exceeding one thousand rupees.

Restrictions on interest of member of society with limited liability and a share capital.

7. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons who have attained the age of majority and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

Conditions of registration.

- (a) reside in the same town or village or in the same group of villages ; or
- (b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word 'limited' shall be the last word in the name of every society with limited liability registered under this Act.

8. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Power of Registrar to decide certain questions.

9. (1) For purposes of registration an application to register shall be made to the Registrar.

Application for registration.

- (2) The application shall be signed—
- (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 7 ; and
- (b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where

(Registration.)

all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws. In case of refusal, an appeal shall lie to the ¹[Provincial Government] within two months from the date of the issue of the order of refusal by registered post.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Amendment of the by-laws of registered society.

12. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment. In case of refusal, an appeal shall lie to the ¹[Provincial Government] within two months from the date of the issue of the order of refusal by registered post.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Division and amalgamation of societies.

13. (a) (1) Any registered society may, at a meeting of its general body specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this sub-section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Registration.)

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new societies and the by-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in clause (3) provision shall be made by another resolution for

(i) the repayment of the share capital of all the members who have given notice under sub-clause

(ii) of clause (2) ; and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2) :

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (3).

(Registration.)

(b) (1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least seven clear days' notice shall be given to their respective members, resolve to amalgamate into one society. This resolution is hereinafter in this sub-section referred to as the preliminary resolution.

(2) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of the new society.

(iii) Any creditor of any such society, may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen clear days' notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new society and the by-laws thereof. On such registration, the registration of the old societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the joint meeting referred to in clause (3), provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2) ; and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2) :

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(Registration. Rights and Liabilities of members.)

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new society.

(6) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

RIGHTS AND LIABILITIES OF MEMBERS.

14. (1) No member of a registered society shall, save as Member not otherwise provided in sub-section (2), exercise the rights of to exercise a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules and by-laws. rights till due payment made.

(2) In the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may elect a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider desirable :

Provided that the committee shall cease to function as soon as the members of the society have elected a committee in accordance with its by-laws.

15. (1) The committee may at any time call a general General meetings. meeting of the society and shall call such a meeting within one month after receipt of a requisition in writing from the Registrar or from a financing bank to which the society is indebted or from such number of members or proportion of the total number of members as may be specified in the by-laws of the society.

(2) If a general meeting is not called in accordance with such requisition, the Registrar shall have power to call a general meeting of the society himself.

16. (1) No member of any registered society shall have Votes of more than one vote in the affairs of the society provided that members. more than one vote in the affairs of the society provided that in the case of an equality of votes the Chairman shall have a casting vote.

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint any of its members not disqualified for such appointment under any rules prescribed in that behalf to vote in the affairs of such other registered society.

17. (1) The transfer of the share or interest of a member Restrictions on transfer of share or interest. in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(Rights and Liabilities of members. Duties of Registered Societies. Privileges of Registered Societies.)

(2) In the case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

- (a) he has held such share or interest for not less than one year; and
- (b) the transfer is made to the society or to a member of the society.

DUTIES OF REGISTERED SOCIETIES.

Address of societies.

18. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Copy of Act, rules and by-laws to be open to inspection.

19. Every registered society shall keep a copy of this Act and of the rules governing such society and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society.

PRIVILEGES OF REGISTERED SOCIETIES.

Societies to be bodies corporate.

20. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

Prior claim of society.

21. (1) Subject to the prior claim, if any, of ¹[the Crown] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past or deceased member—

- (a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;
- (b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan or on any articles manufactured from raw materials so supplied or purchased.

¹ These words were substituted for the words "the Government" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Privileges of Registered Societies.)

(2) The priority created by sub-section (1) in favour of a registered society shall be available against any claim of ¹ [the Crown] arising from a loan granted under the Land **XIX of 1883.** Improvements Loans Act, 1883, after the grant of the loan by the society.

22. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past or deceased member and upon any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past or deceased member or the estate of a deceased member in or towards payment of any such debt. Charge and set-off in respect of shares or interest of member.

23. Subject to the provisions of section 22, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency Towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest. Shares or interest not liable to attachment.

III of 1909.
V of 1920.

24. (1) Subject to the provisions of section 22, a registered society may on the death of a member transfer his share or interest in the capital to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws :

Transfer of interest on death of member.

Provided that—

- (i) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid ; and
- (ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir, legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

¹ These words were substituted for the words "the Government" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Privileges of Registered Societies.)

(2) Subject as aforesaid, a registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member or of the estate of a deceased member.

25. The liability of a past member or of the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his decease, as the case may be, shall continue for a period of two years from such date.

Register of members.

26. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein :—

- (a) the date on which the name of any person was entered in such register or list as a member ; and
- (b) the date on which any such person ceased to be a member.

Proof of entries in societies' books.

27. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or the arbitrator made for special cause.

¹ [28. * * * * * .]

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

29. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply ^{XVI} of 1908. to—

- (1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property ; or

¹ Section 28 was omitted by section 2 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

(Privileges of Registered Societies.)

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

Madras Act
II of 1864.

¹ [29-A. Where, under this Act or any rule made there-
under, any sum due to a registered society from any person is
recoverable as an arrear of land revenue and the immovable
property of such person is brought to sale under the provisions
of the Madras Revenue Recovery Act, 1864, and the society
is the purchaser at such sale, the provisions of section 36 of the
said Act shall apply thereto as if for the third and fourth
clause thereof the following clauses were substituted, namely :—

“ Third—The sum due to the purchaser shall be set off,
in whole or in part, against the purchase money and
the remainder, if any, of the purchase money shall
be paid to the Collector or other officer empowered by
the Collector in that behalf within thirty days of the
date of sale.

“ Fourth—Where the purchaser refuses or omits to
complete the payment of the remainder, if any, of
the 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 property, on the second sale,
sells 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.”]

30. (1) The ²[Central Government] by notification in the
³ [Official Gazette] may, in the case of any registered society
or class of registered societies, remit the income-tax payable
in respect of the profits of the society, or of the dividends
or other payments received by the members of the society on
account of profits.

¹ Section 29-A was inserted by section 2 of the Madras Co-operative Societies (Amendment) Act, 1933 (Madras Act VIII of 1933).

² These words were substituted for the words “ Governor-General in Council ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words “ Gazette of India ” by *ibid.*

Right to
set-off where
a registered
society
purchases
immovable
property at
a sale under
Madras Act
II of 1864
for any sum
due to it.

Power to
exempt
from
income-tax,
stamp duty
and registra-
tion fees.

(Privileges of Registered Societies. Property and Funds of Registered Societies.)

(2) The ¹ [Government], by notification in the ² [Official Gazette], may in the case of any registered society or class of registered societies remit—

(a) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any class of such instruments or decisions, awards or orders of the Registrar or arbitrators under this Act are respectively chargeable ; and

(b) any fee payable under the law of registration for the time being in force.

³ [In this sub-section 'Government,' in relation to stamp duties means the Government which is the collecting Government for the purposes of the Indian Stamp Act, 1899, and, II of 1899 save as aforesaid, means the Provincial Government.]

Government
aid to
registered
societies.

31. Notwithstanding anything contained in any other enactment, the ⁴ [Provincial Government] may, subject to such rules as may be prescribed in this behalf, grant loans to, take shares in, or give financial assistance in any other form to any registered society.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

Restrictions
on loans.

32. (1) A registered society shall not make a loan to any person other than a member :

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar, a registered society shall not lend money on the security of movable property other than agricultural produce.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a registered society may make a loan to a depositor on the security of his deposit.

(4) The ⁴ [Provincial Government] may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

¹ This word was substituted for the words "Local Government" by Schedule II to the Government of India (Adaptation of Indian Laws; Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1), *ibid.*

³ This paragraph was added by Schedule II, *ibid.*

⁴ These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid.*

(Property and Funds of Registered Societies.)

33. A registered society shall receive deposits and loans only to such extent and under such conditions as may be prescribed by the rules or the by-laws of the society. Restrictions on borrowings.

34. (1) Subject to the provisions of sub-section (4) of section 32, a registered society may invest or deposit its funds—

- (a) in the Government Savings Bank, or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, or
- (c) in the shares or securities of any other registered society provided that no such investment shall be made in the shares of any society with unlimited liability, or
- (d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or
- (e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

35. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members : Funds not to be divided among members.

Provided that payment may be made to a member for work done by him as Secretary or as clerk on such scale as may be prescribed by the by-laws :

Provided also that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder or such profits and from any profits of past years available for distribution may be made—

- (i) as a bonus to a member for any specific service rendered by him to the society including work done as Secretary or as clerk, and
- (ii) among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

36. Any registered society may, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding 10 per cent of the remaining net profits to any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890. Contribution to charitable purpose.

37. (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year. Audit.

(Property and Funds of Registered Societies. Inquiry and Inspection.)

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorized by him under sub-section (1) may require.

INQUIRY AND INSPECTION.

Inquiry by
Registrar.

38. (1) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry, or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorized by him under sub-section (1) shall have the following powers, namely :—

- (a) He shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.
- (b) He may summon any person who he has reason to believe has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.
- (c) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and

(Inquiry and Inspection.)

place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) Any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(3) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the financing bank, if any, to which the society is indebted.

39. (1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorized by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 38. Inspection
of books by
Registrar.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted.

40. A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank. Inspection
of books by
financing
bank.

41. Where an inquiry is held under section 38 or an inspection is made under section 39, the Registrar may after giving the parties an opportunity to be heard, apportion the costs, or such part of the costs as he may think right, between the Costs of
inquiry
and inspec-
tion.

(*Inquiry and Inspection. Supersession of Committee of Society.*) society, the members or creditor demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 40, by the financing bank.

Recovery of costs. 42. Any sum awarded by way of costs under section 41 may be recovered as if it were an arrear of land revenue.

SUPERSESSION OF COMMITTEE OF SOCIETY.

Supersession of committee.

43. (1) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

¹ [(2) The person or persons so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and to take all such action as may be required in the interests of the society.]

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and the other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

² [(5) Before taking any action under sub-section (1) in respect of a financing bank or in respect of a society indebted to a financing bank, the Registrar shall consult in the former case the Madras Provincial Co-operative Bank, and in the latter case the financing bank concerned, regarding such action.]

(6) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 44.

¹ This sub-section was substituted for the original sub-section by section 2 of the Madras Co-operative Societies (Amendment) Act, 1934 (Madras Act VI of 1934).

² This sub-section was substituted for the original sub-section by section 2 of the Madras Co-operative Societies (Amendment) Act, 1935 (Madras Act II of 1935).

(Dissolution of Society.)

DISSOLUTION OF SOCIETY.

44. (1) If the Registrar, after an inquiry has been held **Dissolution.** under section 38 or after an inspection has been made under section 39 or section 40 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may by order in writing cancel the registration of the society. A copy of the order shall forthwith be communicated to the society by registered post.

(2) Any member of the society may, within two months from the date of the order made under sub-section (1), appeal to the ¹ [Provincial Government] from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of the society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the ¹ [Provincial Government] and such confirmation is communicated to the society by registered post.

45. Where it is a condition of the registration of a society that it should consist of at least ten members who have attained the age of majority the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten such members. **Cancellation of registration of society.**

46. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body— **Effect of cancellation of registration.**

(a) in the case of cancellation in accordance with the provisions of section 44, from the date the order of cancellation takes effect ;

(b) in the case of cancellation in accordance with the provisions of section 45, from the date of the order.

47. (1) Where the registration of a society is cancelled **Winding up.** under section 44 or section 45, the Registrar may appoint any person to be liquidator of the society.

(2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall, on the appointment of a liquidator under sub-section (1), vest in such liquidator and he shall have power to realize such assets by sale or otherwise.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Dissolution of Society.)

(3) Such liquidator shall also have power, subject to the control of the Registrar—

- (a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office ;
- (b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons ;
- (c) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising between claimants ;
- (d) to pay claims against the society (including interest up to the date of cancellation of registration) according to their respective priorities, if any, in full or rateably, as the assets of the society permit ; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case ;
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;
- (f) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ; and
- (g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

(4) Subject to any rules that may be made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and (so far as may be) in the same manner as is provided in the case of a civil court under the Code of V of 1908. Civil Procedure, 1908.

(5) Any sum ordered under this section to be recovered as a contribution to the assets of the society or as costs of liquidation may be recovered, on a requisition being made in this behalf to the Collector by the Registrar, in the same manner as arrears of land revenue.

(Dissolution of Society. Surcharge and Attachment.)

(6) Save as provided in sub-section (5), orders made under this section shall, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post.

48. Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and when a liquidator has been appointed no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Bar of suit
in certain
cases.

SURCHARGE AND ATTACHMENT.

49. (1) Where in the course of an audit under section 37 or an inquiry under section 38 or an inspection under section 39 or the winding up of a society, it appears that any person who has taken part in the organization or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

Surcharge.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated or if the headquarters of the society are situated in the City of Madras, by the City Civil Court, on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Collector by the Registrar in the same manner as arrears of land revenue.

(Surcharge and Attachment. Arbitration.)

(4) This section shall apply notwithstanding that such person or officer may have incurred criminal liability by his act.

Attachment
of property.

50. Where the Registrar is satisfied on the application of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (b) of sub-section (3) of section 47 or section 49—

(a) is about to dispose of the whole or any part of his property ; or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

ARBITRATION.

Disputes.

51. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society, or

¹ [(c) between the society or its committee and any past committee, any officer, agent or servant, or any past officer, past agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant, of the society, or]

(d) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

Explanation.—A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

¹ This clause was substituted for the original clause by section 4 of the Madras Co-operative Societies (Amendment) Act, 1936 (Madras Act V of 1937).

(Arbitration. Offences and Penalties.)

- (2) The Registrar may, on receipt of such reference,—
- (a) decide the dispute himself, or
 - (b) transfer it for disposal to any person who has been invested by the ² [Provincial Government] with powers in that behalf, or
 - (c) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to such rules as may be prescribed the Registrar may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of that sub-section and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary ; and such attachment shall have the same effect as if it had been made by a competent civil court.

(5) The Registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the person to whom such reference was transferred or by the arbitrator or arbitrators to whom it was referred.

(6) (a) Any decision passed by the Registrar under clause (a) of sub-section (2) or under sub-section (5) shall be final and shall not be called in question in any civil or revenue court.

(b) Any decision that may be passed by the person to whom a reference is transferred or by the arbitrator or arbitrators to whom it is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

OFFENCES AND PENALTIES.

52. It shall be an offence under this Act if—

- (a) a registered society or an officer or member thereof, wilfully makes a false return or furnishes false information ; or

Offences.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Offences and Penalties.)

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act.

Punishment for disposing of property in contravention of section 21.

53. Any member or past member or the nominee, heir or legal representative of a deceased member contravening the provisions of section 21 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under that section or doing any other act to the prejudice of such claim, shall be punishable with fine not exceeding two hundred rupees.

Prohibition of the use of the word 'co-operative'.

54. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word 'co-operative' is part without the sanction of the ¹ [Provincial Government] :

Provided that nothing in the section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which the Co-operative Societies Act, 1912, came into operation : II of 1912.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Punishment for offences not otherwise provided for.

55. Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Cognizance of offences.

56. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, 1898, be deemed to be V of 1898. non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Miscellaneous.)

MISCELLANEOUS.

57. The ¹ [Provincial Government] or the Registrar may call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to the ¹ [Provincial Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled, or reversed, the ¹ [Provincial Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

² [57-A. The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the ¹ [Provincial Government] and without prejudice to any other mode of recovery provided by or under this Act, recover—

- (a) any amount due under a decree or order of a Civil Court, a decision or an award of the Registrar or arbitrator, or an order of the Registrar, obtained by a registered society including a financing bank or liquidator ; or
- (b) any sum awarded by way of costs under section 41 to a registered society including a financing bank or to the Government ; or
- (c) any sum ordered under section 47 to be recovered as a contribution to the assets of a society or as costs of liquidation ; or
- (d) any sum ordered under section 49 to be repaid to a society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the costs of process, by the attachment and sale ³ [or by the sale without attachment] of the property of the person against whom such decree, decision, award or order has been obtained or passed.]

⁴ [57-B. The Registrar or any person empowered by him in that behalf, shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Section 57-A was inserted by section 3 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

³ These words were inserted by section 5 of the Madras Co-operative Societies (Amendment) Act, 1936 (Madras Act V of 1937).

⁴ This section was inserted by section 6, *ibid.* It should be deemed to have come into force on the 1st August 1933 by virtue of section 2, *ibid.*

(Miscellaneous.)

to him for such recovery or to take some step-in-aid of such recovery, to be a Civil Court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908.] IX of 1908.

Recovery of sums due to Government.

58. (1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceeding under this Act may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies from the members, past members or the estates of deceased members:

Provided that the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of section 25.

Power to exempt societies from conditions as to registration.

59. Notwithstanding anything contained in this Act, the ¹ [Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt registered societies from provisions of the Act.

60. The ¹ [Provincial Government] may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

Indian Companies Act, 1913, not to apply.

61. The provisions of the Indian Companies Act, 1913, VII of 1913, shall not apply to registered societies.

Saving of existing societies.

62. (1) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, or X of 1904, under the Co-operative Societies Act, 1912, shall be deemed II of 1912. to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Miscellaneous.)

63. No act of a registered society or any committee or of any officer of the society, shall be deemed to be invalid by reason only of some defect in the organization of the society or in the formation of the general body or in the appointment or election of the officer or on the ground that he was disqualified for his office.

Acts of societies, etc., not to be invalidated by certain defects.

II of 1912. **64.** All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in British India and for the time being in force in the Presidency of Madras shall, in its application to the said Presidency, be construed as references to this Act.

Construction of references to Co-operative Societies Act, 1912, in enactments.

65. (1) The ¹ [Provincial Government] may, for the whole or any part of the Presidency of Madras, and for any registered society or class of such societies, make rules to carry out all or any of the purposes of this Act.

Rules.

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

- (a) subject to the provisions of section 6 prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;
- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications ;
- (c) subject to the provisions of section 5 prescribe the procedure to be followed when societies change their form of liability ;
- (d) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation ;
- (e) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership ;
- (f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;
- (g) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Law) Order, 1937.

(Miscellaneous.)

- (h) prescribe in the case of a financing bank—
- (i) the proportion of individual members to society members in the constitution of its general body or of its committee ; and
 - (ii) the maximum number of members of its committee ;
- (i) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (j) prohibit a society from appointing a defaulting member of any society to its committee or to the committee of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote ;
- (k) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society ;
- (l) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return for the levy of the expenses of preparing it ;
- (m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified and for the charges to be levied for the supply of such copies ;
- (n) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares ;
- (o) provide for—
- (i) the appointment of an arbitrator or arbitrators to decide disputes ;
 - (ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other person deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests ;
 - (iii) the levy of the expenses incidental to such proceedings ; and
 - (iv) the enforcement of the decisions or awards in such proceedings ;

(Miscellaneous.)

- (p) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members or the estates of deceased members ;
- (q) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members ;
- (r) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;
- (s) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent, to an individual member ;
- (t) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society ;
- (u) prescribe the extent to which a society may limit the number of its members ;
- (v) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies ;
- (w) prescribe the procedure to be followed by a liquidator appointed under section 47, and provide for the disposal of the surplus assets, if any, of the society ;
- (x) subject to the provisions of this Act, determine the cases in which an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of all appeals under this Act ;
- (y) prescribe the period for which and the terms under which aid may be given by the ¹[Provincial Government] to societies and the terms under which the ¹ [Provincial Government] may guarantee the payment of interest on debentures issued by societies ;
- (z) provide for the custody of property attached under this Act ;
- (aa) provide for the issue and service of processes and for proof of service thereof ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Miscellaneous. Repeals. Schedule—Enactments repealed.)

- (bb) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same ;
- (cc) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him ;
- (dd) provide for the recovery of costs awarded against the Government in cases under section 49 ;
- (ee) prescribe the procedure for the attachment and sale of property under ¹ [section 57-A] ; and
- (ff) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the ² [Official Gazette] and on such publication shall have effect as if enacted in this Act.

(5) All such rules shall be laid ³ [before both Chambers of the Provincial Legislature].

REPEALS.

Repeals.

66. The enactments specified in the schedule are hereby repealed in so far as they apply to the Presidency of Madras to the extent specified in the fourth column of the said schedule.

SCHEDULE.

Enactments repealed.

Year.	Number.	Short title.	Extent of repeal.
(1)	(2)	(3)	(4)
<i>Acts of the Governor-General in Council.</i>			
1912	.. II	The Co-operative Societies Act, 1912.	The whole.
1920	.. XXXVIII	The Devolution Act, 1920.	So much as relates to Act II of 1912.
<i>Act of the Governor of Madras in Council.</i>			
1920	.. X	The Co-operative Societies (Amendment) Act, 1920.	The whole.

¹ The word, figures and letter within square brackets were substituted for the word and figures " section 28 " by section 4 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

² These words were substituted for the words " *Fort St. George Gazette* " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words " on the table of the Legislative Council " by Schedule II, *ibid.*

MADRAS ACT No. VII OF 1932.¹

[THE MADRAS COTTON CONTROL ACT, 1932.]

[5th July 1932.]

An Act to provide for the prohibition of the cultivation of pulichai cotton and the mixing of such cotton with other cotton and for the prohibition or restriction of the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Presidency of Madras, the cotton trade and the economic prosperity of the said Presidency, to maintain the quality and reputation of the cotton grown in those areas and for that purpose to prohibit the cultivation of pulichai cotton and the mixing of such cotton with other cotton and to prohibit or restrict the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Cotton Control Act, 1932. Short title and extent.

(2) It extends to the whole of the Presidency of Madras.

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

(a) “ cotton ” means cotton plant, ginned and unginned cotton, cotton waste and cotton seed ;

(b) “ notified area ” means an area specified in a notification under section 3 ; and

(c) “ pulichai cotton ” means the kind of cotton known as *G. neglectum var. roseum*.

3. The ² [Provincial Government] may, by notification in the ³ [Official Gazette] in such local area and for such period as may be specified in the notification— Power of Provincial Government to issue notification prohibiting the cultivation, etc., of pulichai cotton.

(a) prohibit the cultivation of pulichai cotton ; or

(b) prohibit the mixing of pulichai cotton with any other kind of cotton ; or

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 1st March 1932, pages 20–21 ; for Report of Select Committee, see Proceedings of the Madras Legislative Council, Volume LXI, pages 824–828 ; for Proceedings in Council, see *ibid*, Volume LX, pages 431–433 and Volume LXI, pages 795–815.

² These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words “ *Fort St. George Gazette* ” by *ibid*.

(c) prohibit or restrict the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton.

Penalties.

4. Whoever, in contravention of any notification under section 3—

- (a) cultivates pulichai cotton, or
- (b) mixes pulichai cotton with any other kind of cotton, or
- (c) possesses, uses or trades in pulichai cotton or any cotton mixed with pulichai cotton

shall be punishable with fine which may extend to twenty rupees and upon any subsequent conviction with fine which may extend to fifty rupees.

Power of entry and seizure.

5. (1) Any officer authorized in this behalf by the ¹[Provincial Government] may between the hours of 6 a.m. and 6 p.m.—

- (a) enter upon any land in a notified area in which he knows or suspects that pulichai cotton is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton, and seize the cotton so uprooted ; and
- (b) enter upon or into any land, building, vessel or place in a notified area in which he knows or suspects that pulichai cotton or any cotton mixed with pulichai cotton is kept in contravention of a notification under section 3, and seize such cotton.

(2) Every officer seizing any cotton under this section shall forthwith—

- (a) make a report of such seizure to the Magistrate having jurisdiction to try the offence committed in respect of such cotton, together with particulars of such cotton and furnish a copy of such particulars to the occupier of the land, building, vessel or place on or in which such seizure was made, and
- (b) subject to such rules as the ¹[Provincial Government] may prescribe, forward such cotton to the nearest officer authorized by the ¹[Provincial Government] to receive it, for examination and report to the Director of Agriculture, Madras.

(3) The opinion of the authorized officer referred to in clause (b) of sub-section (2), contained in any document signed by such officer regarding the cotton sent to him for examination under that clause, may be used as evidence as to the nature of such cotton, in any inquiry, trial or proceeding under this Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

6. (1) Every owner or occupier of any land, building, vessel or place shall give all reasonable facilities to any officer authorized under sub-section (1) of section 5 to inspect such land, building, vessel or place.

Duty of owner and occupier to give facilities for inspection by authorized officer.

(2) Whoever commits a breach of the provisions of sub-section (1) shall be punishable with fine which may extend to twenty rupees.

7. No prosecution for an offence made punishable by this Act or any rule made thereunder shall be instituted—

Previous sanction and limitation for prosecution.

(i) without the previous sanction of the Director of Agriculture, Madras, or

(ii) after six months from the date of the commission of the offence.

8. No offence made punishable by this Act or any rule made thereunder shall be inquired into or tried by any Court inferior to that of a Presidency Magistrate or a Magistrate of the second class.

Cognizance of offences.

9. No suit, prosecution or other legal proceeding whatever shall be entertained in any Court against any person for anything in good faith done or intended to be done in pursuance or execution of this Act.

Indemnity.

10. (1) The ¹ [Provincial Government] may, by notification in the ² [Official Gazette], make rules consistent with this Act to carry into effect the purposes thereof.

Rules.

(2) In making any rule, the ¹ [Provincial Government] may provide that a breach thereof shall be punishable with fine which may extend to twenty rupees.

MADRAS ACT No. I OF 1933.³

[THE KAPILESWARAPURAM IMPARTIBLE ESTATE ACT, 1932.]

[24th January 1933.]

An Act to declare the Kapileswarapuram Estate to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

WHEREAS it is expedient to declare that the Kapileswarapuram Estate is impartible and that its proprietor cannot exercise unrestricted powers of alienation in respect thereof ;

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " Fort St. George Gazette " by *ibid.*

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 23rd August 1932—Part IV, pages 114-115.

318 *Kapileswarapuram Impartible Estate* [1933 : Mad. Act I
Anakapalle and other Impartible Estates. [1933 : Mad. Act II

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Kapileswarapuram Impartible Estate Act, 1932.

Definition of the Kapileswarapuram estate.

2. For the purpose of this Act, the Kapileswarapuram Estate shall consist of the properties specified in the Schedule.

Kapileswarapuram Estate to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

3. Notwithstanding any decision of Courts, rule or law or enactment to the contrary, the Kapileswarapuram Estate in the Kistna district is hereby declared to be impartible within the meaning of the Madras Impartible Estates Act, 1904, and shall in the hands of its present owner as well as of his heirs and successors be subject to the provisions of that Act. Madras
II of 11

Savings.

4. This Act shall not affect any alienation made or debt incurred before the commencement of this Act.

SCHEDULE.

(See section 2.)

LIST OF VILLAGES INCLUDED IN THE KAPILESWARAPURAM ESTATE IN THE KISTNA DISTRICT.

<i>Seri villages.</i>	<i>Mokhasas and Agraharams.</i>
1 Kapileswarapuram.	4 Ramachandrapuram.
2 Illur-lanka.	5 Daggumilli, one-sixth share.
3 Nuzvid, one-sixth share, exclusive of gardens and Palace buildings with their compound.	6 Pinnamareddipalli. 7 Mamillapalli. 8 Surepalli, one-sixth share. 9 Vattigudipadu.

MADRAS ACT No. II OF 1933.¹

[THE ANAKAPALLE AND OTHER IMPARTIBLE ESTATES ACT, 1932.]

[24th January 1933.]

An Act to declare the Anakapalle and other Estates to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

WHEREAS it is expedient to declare that the Anakapalle and other Estates are impartible and that their Proprietor cannot exercise unrestricted powers of alienation in respect thereof ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 23rd August 1932—Part IV, pages 116–117.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Anakapalle and other Impartible Estates Act, 1932. Short title.

Madras Act II of 1904.

2. Notwithstanding any decision of Court, rule or law, or enactment to the contrary, the Anakapalle, Bharinikam, Munagapaka, Godicherla, Srirampuram, Koruprolu and Nakkapalle Estates in the Vizagapatam district are hereby declared to be impartible estates within the meaning of the Madras Impartible Estates Act, 1904, and shall in the hands of their present owner as well as his heirs and successors, be subject to the provisions of that Act. Anakapalle and certain other Estates to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

3. This Act shall not affect any alienation made or debt incurred before the commencement of this Act. Savings.

MADRAS ACT No. IV OF 1933.¹

[THE MADRAS DISTRICT MUNICIPALITIES (SECOND AMENDMENT) ACT, 1933.]

[4th April 1933.]

An Act further to amend the Madras District Municipalities Act, 1920, for a certain purpose.

Madras Act V of 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras District Municipalities (Second Amendment) Act, 1933. Short title.

Madras Act V of 1920.

2. For section 40-A of the Madras District Municipalities Act, 1920, the following section shall be substituted, namely :—

[*Vide pp. 365-367, Vol. III.*]

Madras Act V of 1920.

3. On and after the date of the commencement of this Act, no motion expressing want of confidence in the chairman or the vice-chairman shall be debated or voted upon by any council unless the provisions of section 40-A of the Madras District Municipalities Act, 1920, as amended by this Act, have been complied with. Motion of no-confidence in chairman or vice-chairman to comply with the provisions of section 40-A of the Madras District Municipalities Act, 1920.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 26th July 1932—Part IV, pages 104-105.

MADRAS ACT No. V OF 1933.¹

[THE MADRAS LOCAL BOARDS (SECOND AMENDMENT)
ACT, 1933.]

[4th April 1933.]

An Act further to amend the Madras Local Boards Act, 1920, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Local Boards Act, 1920, for the purpose hereinafter appearing ;
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Local Boards (Second Amendment) Act, 1933.

Substitution of new section for section 44 of Madras Act XIV of 1920.

2. For section 44 of the Madras Local Boards Act, 1920, the following section shall be substituted, namely :—

[*Vide pp. 663–665, Vol. III.*]

Motion of no-confidence in president or vice-president to comply with the provisions of section 44 of the Madras Local Boards Act, 1920.

3. On and after the date of the commencement of this Act, no motion expressing want of confidence in the president or the vice-president shall be debated or voted upon by any board unless the provisions of section 44 of the Madras Local Boards Act, 1920, as amended by this Act, have been complied with.

MADRAS ACT No. IX OF 1933.²

[THE VELLIYAKUNDAM IMPARTIBLE ESTATE ACT, 1933.]

[2nd May 1933.]

An Act to declare the Velliyakundam Zamin to be impartible within the meaning of the Madras Impartible Estates Act, 1904.

WHEREAS it is expedient to declare that the Velliyakundam Zamin is an impartible estate and that its proprietor cannot exercise unrestricted powers of alienation in respect thereof ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Velliyakundam Impartible Estate Act, 1933.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 26th July 1932—Part IV, page 107.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 22nd November 1932—Part IV, pages 322–323.

Madras Act
II of 1904.

2. Notwithstanding any decision of court, rule of law or enactment to the contrary, the Velliyakundam Zamin in the Madura district is hereby declared to be an impartible estate within the meaning of the Madras Impartible Estates Act, 1904, and shall in the hands of the present owner as well as his heirs and successors be subject to the provisions of that Act.

The Velliyakundam Zamin to be an impartible estate within the meaning of the Madras Impartible Estates Act, 1904.

3. This Act shall not affect any alienation made or debt incurred before the coming into force of this Act.

THE BHAVANI RESERVOIR IRRIGATION CESS
ACT, 1933.

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5. Exclusion of jurisdiction of civil courts.
6. Rules.
7. Saving as to water-cess leviable under the Madras Irrigation Cess Act, 1865.

MADRAS ACT No. XVI OF 1933.¹

[THE BHAVANI RESERVOIR IRRIGATION CESS ACT, 1933.]

[23rd May 1933.]

An Act to provide for the levy of water-cess on lands irrigable from the Bhavani Reservoir.

WHEREAS the Government propose to construct a reservoir on the Bhavani river near its junction with the Moyar river in order to provide water to supplement rainfall for the irrigation of dry crops ;

AND WHEREAS it is necessary in order to safeguard the Government revenue that the payment of water-cess in respect of all lands the irrigation of which from the reservoir is permitted should be made obligatory whether the water is taken or not ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Bhavani Reservoir Irrigation Cess Act, 1933. Short title, extent and commencement.

(2) It extends to all lands the irrigation of which from the Bhavani Reservoir (hereinafter called the reservoir) is allowed by or under the orders of the ² [Provincial Government] but does not extend to any land which on the date this Act comes into force is entitled to irrigation with water of the Bhavani river, or any other source belonging to or constructed ³ [by, or on behalf of, the Crown].

(3) It shall come into force on such * date as the ² [Provincial Government] may by notification in the ⁴ [Official Gazette] appoint.

2. Notwithstanding anything contained in the Madras Irrigation Cess Act, 1865, it shall be lawful for the ² [Provincial Government] to levy every fasli water-cess on all lands the irrigation of which from the reservoir is allowed by or under the orders of the ² [Provincial Government], whether such lands are actually irrigated with water from Levy of water-cess on lands allowed to be irrigated from the Bhavani Reservoir*.

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 24th January 1933, pages 9-10 ; for Report of Select Committee, see Proceedings of the Madras Legislative Council, Volume LXVI, pages 776-780 ; for Proceedings in Council, see *ibid*, Volume LXIV, pages 418-419 and Volume LXVI, pages 742-746.

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words " by the Local Government " by Schedule II, *ibid*.

⁴ These words were substituted for the words " *Fort St. George Gazette*," by paragraph 4 (1), *ibid*.

* Came into force on the 23rd May 1933.

the reservoir or not; and the ¹[Provincial Government] may by rule prescribe the conditions under which and the rates at which such water-cess shall be levied :

Provided that water-cess shall not be levied under this Act on any land unless a permit has been issued in respect thereof under section 3 and unless such permit is in force :

Provided further that the rate of water-cess charged under this Act shall in no case exceed nine rupees per acre.

Permits.

3. (1) Permits shall be issued in respect of all lands the irrigation of which from the reservoir is allowed by or under the orders of the ¹[Provincial Government].

(2) Every such permit shall be issued by such authority and shall be in such form as the ¹[Provincial Government] may by rule prescribe and shall specify the conditions under which the land in respect of which it is issued may be irrigated, and in particular the period in every fasli during which such land may be irrigated and the source through which water may be taken for such irrigation :

Provided that where the ¹[Provincial Government] by notification in the district gazette so direct a permit shall not be issued under this sub-section in respect of any land after the date specified in such notification in that behalf except on payment of such fee and on such other terms and by such authority as the ¹[Provincial Government] may by rule prescribe.

(3) Every permit issued under sub-section (2) shall be served on, or tendered to, the registered holder of the land in respect of which it is issued, in such manner as the ¹[Provincial Government] may by rule prescribe.

(4) The registered holder may, within three months from the date on which the permit is so served on, or tendered to, him, apply to the Collector of the district for the cancellation or modification of the permit on the ground that it is not advantageous to irrigate such land or any specified portion thereof either on account of the rate of water-cess prescribed by the ¹[Provincial Government] or for any other reason such as the unsuitability of the water for the soil or for the crop usually grown on the land. Against the order of the Collector on such application, the registered holder may, within three months from the date of the order, appeal to the Board of Revenue which may pass such order on the appeal as it thinks fit. The registered holder shall not be entitled to call such permit in question except in the manner provided in this sub-section.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(5) Any permit issued under this Act may, by order, be cancelled or modified at any time by such authority as the ¹[Provincial Government] may by rule prescribe.

(6) Every permit issued under this Act with such modifications, if any, as may be made therein under sub-section (4) or sub-section (5) shall—

(a) remain in force until it is cancelled under either of the said sub-sections ; and

(b) be binding on the registered holder as well as the owner of the land, for the time being.

4. The provisions of sections 1-A and 2 of the Madras Irrigation Cess Act, 1865, shall apply to the levy of water-cess under this Act as if it were a cess levied under the Madras Irrigation Cess Act, 1865.

Madras Act VII of 1865.

Sections 1-A and 2 of the Madras Irrigation Cess Act, 1865, to apply.

5. No civil court shall take cognizance of any suit or proceeding brought by any person questioning the rate of water-cess levied under this Act or the liability of any person to pay such cess or any order passed under section 3 :

Exclusion of jurisdiction of civil courts.

Provided that nothing in this section shall prevent any person from obtaining in the civil court any relief to which he may be entitled on the ground that he is not liable to pay any such cess because he is neither the registered holder nor the owner of the land in respect of which the levy has been made or on the ground that the land in respect of which the levy has been made is entitled on the date on which this Act comes into force to irrigation with water of the Bhavani river, or any other source belonging to or constructed ³[by, or on behalf of, the Crown].

6. The ¹[Provincial Government] may, by notification in the ³[Official Gazette], make rules consistent with this Act to carry into effect the purposes thereof.

7. Nothing in this Act shall operate as a bar to the levy of water-cess under the Madras Irrigation Cess Act, 1865, for any water taken or used otherwise than under and in accordance with the terms of a permit in force issued under this Act.

Madras Act VII of 1865.

Saving as to water-cess leviable under the Madras Irrigation Cess Act, 1865.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "by the Government" by Schedule II, *ibid.*

³ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1), *ibid.*

THE TIRUMALAI-TIRUPATI DEVASTHANAMS
ACT, 1932.

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*(Chapter I—Preliminary.)*MADRAS ACT No. XIX OF 1933.¹

[THE TIRUMALAI-TIRUPATI DEVASTHANAMS ACT, 1932.]

[6th June 1933.]

An Act to provide for the better administration and governance of the Tirumalai-Tirupati Devasthanams.

WHEREAS it is expedient to provide for the better administration and governance of the Tirumalai-Tirupati Devasthanams and for the proper utilization of the funds of the said devasthanams not required for the usual and ordinary purposes thereof ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I—PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Tirumalai-Tirupati Devasthanams Act, 1932.

(2) It applies to ²[the Tirumalai Hills area as notified by the Provincial Government in the Official Gazette from time to time.] the temples specified in Schedule I and the endowments thereof, and the educational institutions specified in Schedule II.

(3) It shall come into force on such *date as the ³[Provincial Government] may, by notification in the ⁴[Official Gazette], appoint.

Repeals.

2. (1) On the coming into force of this Act—

(a) the arrangement made by the ³[Provincial Government] in 1843 for the management of the Tirumalai-Tirupati Devasthanams and the scheme settled by the Privy Council in Appeal No. 6 of 1906, together with the rules framed thereunder, shall cease to be operative ; and

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 18th August 1931, pages 240-241 ; for Proceedings in Council, see Madras Legislative Council Proceedings, Volume LVII, dated 4th August 1931, page 153 ; *ibid*, Volume LVIII, dated 2nd November 1931, page 402 ; for Report of the Select Committee, see Part IV of the *Fort St. George Gazette*, dated 12th July 1932, pages 79-97 ; for Proceedings in Council, see Madras Legislative Council Proceedings, Volume LXII, dated 3rd August 1932, pages 188-202 and pages 213-243 ; *ibid*, dated 5th August 1932, pages 362-370 ; *ibid*, Volume LXV, dated 11th March 1933, pages 425-427 ; *ibid*, Volume LXVI, dated 24th March 1933, pages 755-775.

² These words were inserted by section 2 of the Tirumalai-Tirupati Devasthanams (Amendment) Act, 1939 (Madras Act XII of 1939).

³ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words " *Fort St. George Gazette* " by *ibid*.

* Came into force on the 7th June 1933.

(Chapter I—Preliminary.)

Madras Act
II of 1926.

(b) the provisions of the Madras Hindu Religious Endowments Act, 1926, except section 44-A shall cease to apply to the said Devasthanams.

Madras Act
VI of 1914.

(2) The Tirupati Devasthanam Schools Act, 1914, is hereby repealed.

¹[3. * * * * *

4. In this Act, unless there is anything repugnant in the subject or context, Definitions.

- (i) " Board " means the Board constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926, and having territorial jurisdiction over the revenue district of Chittoor ;
- (ii) " Commissioner " means the Commissioner of the Tirumalai-Tirupati Devasthanams appointed under section 18 ;
- (iii) " Committee " means the Tirumalai-Tirupati Devasthanams Committee constituted under Chapter II ;
- (iv) " Court " means the principal civil court exercising ordinary original civil jurisdiction over Tirumalai and Tirupati ;
- (v) " Devasthanams " or " Tirumalai-Tirupati Devasthanams " means the temples specified in Schedule I and the endowments thereof and shall include the educational institutions referred to in Schedule II ;
- (vi) " Endowment " means all property belonging to, given or endowed for the support of the devasthanams or for the performance of any service or charity connected therewith, and includes the temples and any offerings made to the idols therein ;
- (vii) " Hereditary officer " means the holder of an office in the devasthanams, succession to which devolves by hereditary right or is otherwise regulated by usage ;
- (viii) " Mahant " means the head for the time being of the Hathiramji Math situated in Tirupati ;
- (ix) " Person having interest " means a person who is entitled to attend at the performance of worship or service in any temple and includes the Board, the Committee, and the Commissioner ;
- (x) " Prescribed " means prescribed by rules made by the ² [Provincial Government] under this Act ;

¹ Section 3 was omitted by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words " Local Government " by paragraph 4 (1), *ibid.*

(Chapter I—Preliminary. Chapter II—The Committee.)

- (xi) "Specific endowment" means any property endowed or money invested for the performance of any particular service or of any particular charity connected with the devasthanams ; ¹[]
- (xii) "Temple" means any religious institution specified in Schedule I together with the appurtenances thereto ; ² [and
- (xiii) "Tirumalai Hills area" means the area notified as such under sub-section (2) of section¹.]

CHAPTER II—THE COMMITTEE.

Administra-
tion of
devastha-
nams to
vest in
Committee.

5. The administration of the devasthanams shall vest in a committee called the Tirumalai-Tirupati Devasthanams Committee, which shall be a body corporate, having perpetual succession and a common seal, and shall sue and be sued by the said name.

Constitution
of the
committee.

6. (1) The committee shall consist of seven members appointed by the ³ [Provincial Government] of whom the Mahant, if willing to serve, shall be one.

(2) Every member shall hold office for a period of three years from the date on which his appointment is notified in the ⁴ [Official Gazette].

Disquali-
fications for
membership.

7. No person shall be eligible for appointment as a member of the committee, if such person is not a Hindu, or if he

- (i) is of unsound mind, a deaf-mute or suffering from leprosy ; or
- (ii) is an undischarged insolvent ; or
- (iii) is an office-holder or a servant of the devasthanams or is in receipt of any emolument or perquisite from the devasthanams ; or
- (iv) is interested in a subsisting contract for making any supplies to or executing any work on behalf of the devasthanams ; or
- (v) is employed as a legal practitioner on behalf of the devasthanams or as legal practitioner against the devasthanams :

Provided that the disqualification specified in clause (iii) shall not apply to the Jiyengars or the Acharyapurushas of the devasthanams.

¹ The word "and" was omitted by section 3 (i) of the Tirumalai-Tirupati Devasthanams (Amendment) Act, 1939 (Madras Act XII of 1939).

² This was added by section 3 (ii), *ibid.*

³ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter II—The Committee)

8. Any member of the committee including the Mahant may express his inability to serve as a member, or resign his office as a member, by giving a notice in writing to the Commissioner and on such expression of inability or resignation, his office shall become vacant. Relinquishment of office by member.

9. If in the opinion of the ¹ [Provincial Government] any member of the committee including the Mahant has failed or is unable to attend to the duties of his office for a period of three months, or if he becomes disqualified for any of the reasons mentioned in section 7, or if he is absent from the meetings of the committee for six consecutive months, or if three consecutive meetings are not held within that period, from three consecutive meetings of the committee, whichever covers a longer period, the ¹ [Provincial Government] shall, by notification in the ² [Official Gazette], declare that his office has become vacant. Provincial Government to declare office vacant in certain cases.

10. Any person ceasing to be a member shall, unless disqualified under section 7, be eligible for fresh appointment. Eligibility of persons for fresh appointment.

11. (1) If in the opinion of the ¹ [Provincial Government], a committee is not competent to perform, or persistently makes default in performing, the duties imposed on it under this Act, or exceeds or abuses its powers, the ¹ [Provincial Government] may, on the recommendation of the Board, by notification, dissolve the committee and direct the immediate reconstitution of another committee in accordance with the provisions of this Act. Dissolution and reconstitution of committee.

(2) Before issuing a notification under sub-section (1), the ¹ [Provincial Government] shall communicate to the committee the grounds on which they propose to do so, fix a reasonable time for the committee to show cause against the proposal, and consider its explanation or objections, if any.

(3) Where a committee is dissolved or superseded under this section, the Commissioner shall, until the constitution of another committee, have power to exercise the powers and perform the functions of the committee.

12. The quorum for a meeting of the committee shall be three. Quorum.

13. The members of the committee shall elect a President from among themselves, provided that until the expiration of three years from the date of the coming into force of this Act, the Mahant, if he is a member of the committee and willing to act as President, shall be the President. President of committee.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(Chapter II—The Committee. Chapter III—The Commissioner and Establishment.)

Presidency at meetings of committee.

14. Every meeting of the committee shall be presided over by the President ; and in his absence by a member chosen by the meeting to preside for the occasion.

Decision of questions at meetings.

15. Questions arising at a meeting of the committee shall be decided by a majority of the votes of the members present thereat and in every case of equality of votes, the President or the person presiding shall have and exercise a casting vote.

No member to receive or be paid remuneration.

16. No member of the committee shall receive or be paid any salary or other remuneration from the funds of the devasthanams except such travelling or halting allowances as may be prescribed.

Duties of committee.

17. Subject to the provisions of this Act and the rules made thereunder, the committee shall manage the properties and affairs of the devasthanams and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.

CHAPTER III—THE COMMISSIONER AND ESTABLISHMENT.

Commissioner.

18. (1) The ¹[Provincial Government] shall appoint a Commissioner who, unless sooner removed by them for sufficient cause, shall hold office for a period of three years. An outgoing Commissioner shall be eligible for reappointment.

(2) When any temporary vacancy occurs in the office of Commissioner, the ¹[Provincial Government] may fill up the vacancy.

Commissioner to be a Hindu.

18-A. The Commissioner shall be a person professing the Hindu religion.

Conditions of service and pay of Commissioner.

19. (1) The Commissioner shall be a whole-time officer of the devasthanams and shall not undertake any work unconnected with his office without the permission of the committee.

(2) The Commissioner shall be paid out of the funds of the devasthanams such salary not exceeding Rs. 1,200 per mensem as may, from time to time, be fixed by the ¹[Provincial Government].

(3) If the Commissioner is a civil or military officer in the service of the Government, the devasthanams shall ²[make such contribution to the leave allowances, pension and provident fund of the Commissioner as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf].

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "contribute to the leave allowances, pension and Provident Fund of the Commissioner to the extent required by the rules for the time being in force" by Schedule II, *ibid.*

(Chapter III—*The Commissioner and Establishment.*)

20. (1) The Commissioner shall perform the duties and exercise the powers specified by sections 21 to 26 and section 38. Powers and duties of Commissioner.

(2) He shall be the chief executive officer of the devasthanams and shall, subject to the control of the committee, have general power to carry out the other provisions of this Act.

21. The Commissioner shall be responsible for the custody of all the records and properties of the devasthanams, and shall arrange for the proper collection of the offerings made in the temples. Custody of records and properties.

22. (1) The Commissioner shall have power to lease out for a period not exceeding one year the lands and buildings of the devasthanams, which are ordinarily leased out. Powers of Commissioner to lease, etc.

(2) He shall have power to call for tenders for works or supplies and accept such tenders when the amount or value thereof does not exceed Rs. 5,000.

23. The Commissioner may, in cases of emergency, direct the execution of any work or the doing of any act, which is not provided for in the budget for the year and the immediate execution or the doing of which is, in his opinion, necessary for the preservation of the properties of the devasthanams or for the service or safety of the pilgrims resorting to the devasthanams ; and may direct that the expenses of executing such work or doing the act shall be paid from the funds of the devasthanams. The Commissioner shall forthwith report to the committee the action taken under this section and the reasons therefor. Extraordinary powers of the Commissioner.

24. (1) After the appointment of the first Commissioner, he shall, as soon as may be, prepare and submit to the committee a schedule setting forth the designations and grades of the officers and servants who should, in his opinion, constitute the establishment of the devasthanams and embody his proposals with regard to the salaries and allowances payable to them ; and such schedule shall come into force, on approval by the committee. Establishment schedule.

(2) No change shall be effected in such schedule except at the instance of the Commissioner and with the sanction of the committee.

(3) The creation of any new appointment carrying a salary of not less than Rs. 200 per mensem shall be subject to the previous sanction of the Board.

25. The Commissioner shall have power to appoint all officers and servants of the devasthanams whose salary is below Rs. 200 per mensem, not being hereditary officers or holders of offices to which hereditary officers have power to Appointment of officers and servants.

(Chapter III—The Commissioner and Establishment.
Chapter IV—Advisory Councils.)

appoint. The committee shall have power to appoint other officers and servants of the devasthanams not being hereditary officers or holders of offices to which hereditary officers have power to appoint :

Provided that the Commissioner may make temporary provision when necessary for the carrying on of the duties of a vacant hereditary office or office to which a hereditary officer has power to appoint and report the matter to the committee at its next meeting.

Punishment
of officers
and ser-
vants.

26. (1) The Commissioner may fine, reduce, suspend, remove or dismiss any non-hereditary officer or servant of the devasthanams whom he is competent to appoint, for neglect of duty, breach of discipline, carelessness or other misconduct.

(2) The orders of the Commissioner fining an officer or servant drawing a salary not exceeding Rs. 25 per mensem shall be final. Against any other order of punishment by the Commissioner, there shall be an appeal to the committee whose decisions thereon shall be final.

(3) The Commissioner may, if he has reason to believe that any officer or servant not being an officer or servant referred to in sub-section (1) has been guilty of neglect of duty, breach of discipline, carelessness or other misconduct, suspend such officer or servant pending the orders of the committee. The Commissioner shall report the fact of such suspension with the reasons therefor to the committee at its next meeting.

(4) The committee may fine, reduce, suspend, remove or dismiss any officer or servant appointed by itself and any hereditary office-holder or servant of the devasthanams, for neglect of duty, breach of discipline, carelessness or other misconduct. The order of the committee shall be subject to an appeal to the Board. Subject to the result of such appeal, if any, the order of the committee shall be final. The order of the Board on any such appeal shall be final.

Regulations.

27. Subject to the provisions of this Act, the committee may make regulations regarding the methods of recruitment, conditions of service, pay and allowances, discipline and conduct of the officers and servants constituting the establishment of the devasthanams.

CHAPTER IV—ADVISORY COUNCILS.

Constitu-
tion of
Advisory
Councils.

28. (1) There shall be constituted—

- (i) an advisory council consisting of the representatives of the jiyengars, the archakas, the acharyapurushas and other mirasidars of the devasthanams for the purpose of advising the committee in the administration of the religious affairs of the devasthanams ; and

(Chapter IV—Advisory Councils. Chapter V—The Board.)

(ii) another advisory council consisting of the representatives of the ryots of the devasthanams for the purpose of advising the committee in the management of the estates of the devasthanams.

(2) These advisory councils shall be constituted in the manner prescribed.

29. The ¹ [Provincial Government] may make rules regarding the appointment of a chairman for each of the said councils, for the conduct of business at meetings thereof, and the subjects on which the advice of these councils may be taken. Rules for appointment of Chairman, etc., of Advisory Councils.

CHAPTER V—THE BOARD.

30. The Board shall have power to call for all such information and accounts as may in its opinion be necessary for reasonably satisfying itself that the devasthanams are properly maintained, the endowments thereof are properly administered and their funds duly appropriated to the purposes for which they were founded or exist ; and the Commissioner or the committee shall, on such requisition, furnish such information and accounts to the Board. Power of Board to call for information and accounts.

31. The ¹ [Provincial Government] shall annually appoint an auditor to audit the accounts of the devasthanams and fix the remuneration which shall be paid to such auditor from the funds thereof. The auditor shall send a copy of his report to the ¹ [Provincial Government] who may pass such orders thereon as they deem fit. Auditor.

32. Within three months after the close of each fasli year, the committee shall submit to the Board a report of the administration of the affairs of the devasthanams during that fasli in such form as the ¹ [Provincial Government] may fix. The Board shall review the report and submit a copy of the same to the ¹ [Provincial Government] with its remarks thereon. Administration report.

33. The Board may make by-laws as to—

- (i) the maintenance of the records, accounts of receipts and expenditure and registers relating to the devasthanams ;
- (ii) the custody of the records and documents of the devasthanams ; and
- (iii) the investment of the funds of the devasthanams.

By-laws.

34. The President of the Board or any Commissioner of the Board deputed by him in this behalf may inspect any movable or immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to the devasthanams. All officers and servants of the devasthanams shall afford necessary facilities for such inspection. Inspection of properties, etc., belonging to devasthanams.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter V—The Board. Chapter V-A—Sanitary control, etc., of the Tirumalai Hills area. Chapter VI—Utilization of Funds.)

Annual contribution to the Board.

35. The committee shall annually pay to the Board out of the funds of the devasthanams, a contribution equivalent to one and a half per centum of their income calculated in such manner as may be prescribed. If the amount of contribution demanded by the Board is not paid within the time prescribed, it shall, on the application of the President of the Board, be recovered by the Collector of the Chittoor district as if it were an arrear of land revenue and paid over to the said President of the Board.

¹ [CHAPTER V-A—SANITARY CONTROL, ETC., OF THE TIRUMALAI HILLS AREA.

Madras Act XIV of 1920 and other enactments relating to public health to apply to Tirumalai Hills area subject to specified modifications and restrictions.

35-A. The Provincial Government may, by notification in the Official Gazette, direct that the provisions of the Madras Local Boards Act, 1920, or of any other enactment for the time being in force in the Province of Madras and relating to public health, shall apply to the Tirumalai Hills area only to such extent and subject to such modifications and restrictions as may be specified in the notification. In particular, the notification may authorize the Commissioner, in the Tirumalai Hills area, to perform the duties and exercise the powers assigned to a panchayat and its president or to any other authority or officer under the provisions so applied, subject to such control as may be specified in the notification.] Madras Act XIV of 1920.

CHAPTER VI—UTILIZATION OF FUNDS.

Purposes for which funds of devasthanams may be utilized.

36. The funds of the devasthanams may be utilized for all or any of the following purposes :—

- (i) the administration and management of the devasthanams and the maintenance of the educational institutions referred to in Schedule II ;
- (ii) the foundation and maintenance of hospitals and dispensaries for the relief of the pilgrims and worshippers visiting the temples ;
- (iii) the construction and maintenance of choultries and rest-houses for the use and accommodation of all classes of pilgrims ;
- (iv) the provision of water-supply and other sanitary arrangements to the pilgrims ;
- ² [(v) the establishment and maintenance of a veterinary hospital for the animals of the devasthanams ;
- (vi) the acquisition of any lands or other immovable property, which is authorized by the Provincial Government ;]

¹ This chapter was inserted by section 4 of the Tirumalai-Tirupati Devasthanams (Amendment) Act, 1939 (Madras Act XII of 1939).

² Clauses (v) and (vi) were renumbered as clauses (vii) and (viii) respectively and new clauses (v) and (vi) were inserted by section 5, *ibid.*

(Chapter VI—Utilization of Funds.)

- [(vii)] the construction and maintenance of roads and communications and the lighting thereof for the convenience of the pilgrims and worshippers ; and
 [(viii)] the training of archakas to perform the religious worship and ceremonies in the devasthanams, and the training of Adhyapakas and Vedaparyanikas.

37. (1) The committee may, without prejudice to the purposes referred to in section 36 and with the previous sanction of the Board, order that the surplus funds of the devasthanams be utilized for—

- (i) the establishment of a university or college in which special provision is made for the study of Hindu religion, philosophy and sastras and for promoting the cultivation of Indian arts and architecture ;
 (ii) promoting the study of Sanskrit and the Indian vernaculars ;² [.]
³ [(iii)] the establishment and maintenance of a hospital for the benefit of Hindus generally ;
 (iv) the establishment and maintenance of an asylum for Hindu lepers ;
 (v) the construction and maintenance of a poor home for destitute persons professing the Hindu religion who are physically disabled and helpless ; and
⁴ [(vi)] any charitable, religious or educational purpose not inconsistent with the objects of the devasthanams.

(2) The committee may, with the previous sanction of the Board, modify or cancel any order passed under sub-section (1).

(3) The order of the committee under sub-section (1) or sub-section (2) shall be published in the prescribed manner.

(4) Any person having interest may, within six months of the date of such publication, institute a suit in the court to modify or set aside such order. Subject to the result of such suit, the order of the committee shall be final.

(5) Any decision of the court under sub-section (4) may, at any time, for sufficient cause, be modified or cancelled by the court on the application of the committee.

¹ Clauses (v) and (vi) were renumbered as clauses (vii) and (viii) respectively and new clauses (v) and (vi) were inserted by section 5 of the Tirumalai-Tirupati Devasthanams (Amendment) Act, 1939 (Madras Act XII of 1939).

² The word "and" was omitted by section 6 (i), *ibid.*

³ Clauses (iii), (iv) and (v) were inserted by section 6 (iii), *ibid.*

⁴ Clause (iii) was renumbered as clause (vi) by section 6 (ii), *ibid.*

(Chapter VII—General.)

CHAPTER VII—GENERAL.

Budget.

38. (1) The Commissioner shall, in every fasli year, prepare in the prescribed form, a budget estimate of the receipts and expenditure of the devasthanams for the following fasli year, and place it before the committee which may approve it without modification or with such modifications as it deems fit.

(2) A copy of the budget as passed by the committee shall be sent to the Board before the end of May of the year previous to that for which the budget is prepared.

Budget to provide for working balance, etc.

39. (1) The Board shall satisfy itself that adequate provision has been made in the budget for the prescribed working balance and for meeting all the liabilities of the devasthanams.

(2) Where such adequate provision has not been made in the budget, the Board shall order such provision to be made and amend the budget accordingly.

Delegation of powers to Commissioner.

40. The committee may delegate to the Commissioner such of its powers, duties or functions as may be prescribed.

Alienation of immovable property.

41. No sale or mortgage and no lease for more than five years of any immovable property belonging to or in the possession of the devasthanams shall be made by the committee, except with the sanction of the Board.

Rules.

42. (1) The ¹ [Provincial Government] may make rules to carry out all or any of the purposes of this Act, not inconsistent therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules with reference to—

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the grant of leave and leave allowances to and payment of contributions towards the pension of the Commissioner ;
- (c) the grant of travelling and halting allowances to the Commissioner ;
- (d) the grant of travelling and halting allowances to the members of the committee and advisory councils ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter VII—General.)

- (e) the preparation of the budget estimates for the devasthanams ;
- (f) the preparation and sanction of the estimates, and acceptance of tenders, in respect of public works and for supplies ;
- (g) the convening of meetings and the transaction of business of the committee and of the advisory councils ;
- (h) the audit of the accounts of the devasthanams and the particulars to be mentioned in the audit report ; and
- (i) the recovery of amounts payable to auditors appointed by the ¹ [Provincial Government].

43. Save as otherwise expressly provided in or under this Act, nothing herein contained shall affect any established usage of any temple or the rights, honours, emoluments and perquisites to which any person may, by custom or otherwise, be entitled in such temple. Saving of established usages and customs.

44. (1) The Board or any other person having interest may institute a suit in the court to obtain a decree—

- (a) vesting any property in the committee, or
- (b) declaring what portion of an endowment or of the interest therein shall be allocated to any particular object, or
- (c) removing any member of the committee or the trustee of a specific endowment, and directing the appointment of a new member of the committee or a new trustee for the specific endowment, or
- (d) directing accounts and enquiries, or
- (e) granting such further or other relief as the nature of the case may require.

(2) Sections 92 and 93 and Rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908, shall have no application to any suit claiming any relief in respect of the administration or management of the devasthanams and no suit in respect of such administration or management shall be instituted except as provided by this Act.

45. (1) The committee shall be entitled to take and be in possession of all the institutions, properties, jewels, records and documents of the devasthanams. Committee to be in possession of institutions and properties.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter VII—General.)

(2) If in obtaining such possession, the committee is resisted or obstructed by any person, it may make an application to the Court complaining of such resistance or obstruction, and the Court shall, unless it is satisfied that the resistance or obstruction was occasioned by any person claiming in good faith to be in possession on his own account or by virtue of some right independent of that of the devasthanams, make an order that the committee be put into possession. Such order shall, subject to the result of any suit which may be filed to establish the right to the possession of the property, be final.

Costs of
suit, etc.

46. The costs, charges and expenses of, and incidental to, any suit, application or appeal under this Act shall be in the discretion of the Court, which may direct the whole or any part of such costs, charges and expenses to be met from the funds of the devasthanams, or to be borne and paid in such manner and by such persons as it thinks fit :

Provided that all costs and expenses incurred by the Board or the committee in connexion with any legal proceedings required in the interests of the devasthanams shall be payable out of the funds of the devasthanams.

Duties of
trustee of
specific
endowment.

47. The trustee of a specific endowment attached to any temple shall perform the service or charity therein subject to the general superintendence of the committee and such orders as it may issue. Such trustee shall be in such possession of the endowment as he may be entitled to and shall also maintain and submit to the Commissioner such accounts, registers and returns as the committee may require. The accounts of a specific endowment shall be annually audited by an auditor appointed by the committee. He shall be paid such remuneration from the funds of such endowment as the committee may fix.

Removal of
difficulties.

48. If any difficulty arises in giving effect to the provisions of this Act, the ¹ [Provincial Government], as occasion may require, may, by order, do anything not inconsistent with this Act, which appears to them necessary for the purpose of removing the difficulty.

Acts of
Board, etc.,
not to be
invalidated
by informa-
tion, etc.

49. (1) No act or proceeding of the Board or committee or of any person acting as President or Commissioner of the Board or as President or member of the committee shall be deemed to be invalid by reason only of a defect in the establishment or constitution of the Board or committee or on the ground that any member of the Board or committee was not

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter VII—General. Schedule I—List of the Tirumalai-Tirupati Devasthanams.)

entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his appointment or by reason of such act having been done or proceeding taken during the period of any vacancy in the office of President or Commissioner of the Board or of President or member of the committee.

(2) No act or proceeding of the Commissioner shall be deemed to be invalid by reason only of a defect or irregularity in his appointment or on the ground that he was not entitled to hold or continue in office by reason of any disqualification.

SCHEDULE I.

List of the Tirumalai-Tirupati Devasthanams.

[Vide section 1 (2).]

I. The temple of Sri Venkateswaraswami on Tirumalai hill with the sub-temples of—

- (1) Sri Varahaswami,
- (2) ,, Bhashyakarlu No. I (within the pagoda),
- (3) ,, Bedi-Hanumantharayaswami,
- (4) ,, Kshetrapalaka,
- (5) ,, Dova Bhashyakarlu, and
- (6) ,, Anjaneyaswami (in front of Sri Varahaswami).

II. The temple of Sri Govindarajaswami at Tirupati with the sub-temples of—

- (1) Sri Saley Nacharamma,
- (2) ,, Choodikodutta Nacharamma,
- (3) ,, Modal Alwar,
- (4) ,, Chakrath Alwar,
- (5) ,, Madhurakavi Alwar,
- (6) ,, Anjaneyaswami (near Dhvajasthambam),
- (7) ,, Anjaneyaswami (near Pedda Bugga),
- (8) ,, Manavala Mahamuni,
- (9) ,, Nammalwar,
- (10) ,, Vedanta Desikulu,
- (11) ,, Woolu Alwar,
- (12) ,, Tirumala Nambi,
- (13) ,, Tirumanga Alwar,
- (14) ,, Bhashyakarlu No. II,
- (15) ,, Kurath Alwar, and
- (16) ,, Sanjeevaroyaswami.

*(Schedule I—List of the Tirumalai-Tirupati Devasthanams.
Schedule II—List of educational institutions maintained from
the funds of the Tirumalai-Tirupati Devasthanams.)*

III. The temple of Sri Kothandaramaswami at Tirupati.

IV. The temple of Sri Kapileeswaraswami at Tirupati.

V. Sri Padmavathi's temple at Tiruchanur with the sub-
temples of—

- (1) Sri Krishnaswami,
- (2) ,, Suryanarayanawami, and
- (3) ,, Sundararajaswami.

VI. Any other minor temple attached to any of the above
temples and not specifically mentioned above.

SCHEDULE II.

*List of educational institutions maintained from the funds
of the Tirumalai-Tirupati Devasthanams.*

- (1) Devasthanam Hindu High School, Tirupati.
- (2) Sri Mahant Devasthanam Hindu High School, Vellore.
- (3) ,, Venkateswara Vedapatasala, Tirupati.
- (4) ,, Venkateswara Ayurvedic College, Tirupati.
- (5) ,, Venkateswara Sanskrit College, Tirupati.

THE MADRAS COMMERCIAL CROPS MARKETS
ACT, 1933.

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MADRAS ACT No. XX OF 1933. ¹

[THE MADRAS COMMERCIAL CROPS MARKETS ACT, 1933.]

[25th July 1933.]

An Act to provide for the better regulation of buying and selling of commercial crops and the establishment of markets for commercial crops in the Presidency of Madras.

WHEREAS it is expedient to provide for the better regulation of the buying and selling of commercial crops in the Presidency of Madras and for that purpose to establish markets and make rules for their proper administration ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title
and extent.

1. (1) This Act may be called the Madras Commercial Crops Markets Act, 1933.

(2) It extends to the whole of the Presidency of Madras.

Definitions.

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

(i) "commercial crop" means cotton, groundnut or tobacco ;

(ii) "grower of a commercial crop" shall not include a dealer or broker in that crop although he may grow that crop. If a question arises as to whether any person is a grower of a commercial crop or not for the purposes of this Act, the decision of the Collector of the district in which the notified area is situated shall be final ;

(iii) "local body" means the Corporation of Madras or a municipal council or a taluk board or a panchayat constituted under any enactment for the time being in force ;

(iv) "notified area" means any area notified under section 4 ² [as altered by the notification or notifications, if any, under section 5-A] ;

(v) "prescribed" means prescribed by rules or by-laws made under this Act ; and

(vi) "taluk board" means a taluk board constituted under the Madras Local Boards Act, 1920, and where in any part of a district there is no taluk board, the district board constituted under the said Act. Madras Act
XIV of 1920.

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette*, dated 28th July 1931, pages 126-127 ; for proceedings in Council, see Madras Legislative Council Proceedings, Volume LXIV, dated 26th January 1933, pages 432-436 ; for Report of the Select Committee, see Appendix VII, pages 89-104 of the Madras Legislative Council Proceedings, Volume LXV, dated 24th February 1933 ; and for proceedings in Council, see Madras Legislative Council Proceedings, Volume LXV, dated 24th February 1933, pages 50-60.

² These words, figure and letter were added by section 2 of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

3. The ¹ [Provincial Government] may, by notification in the ² [Official Gazette], declare their intention of exercising control over the purchase and sale of such commercial crop or crops and in such area comprised in the district, as may be specified in the notification. Such notification shall state that any objections or suggestions which may be received by the ¹ [Provincial Government], within a period to be specified in the notification, will be considered by them.

Notification of intention of exercising control over purchase and sale of commercial crop in specified area.

A copy of the notification shall be published in the prescribed manner.

4. (1) After the expiry of the period specified in the notification under section 3 and after considering such objections and suggestions as may be received before such expiry, the ¹ [Provincial Government] may, by notification and in any other manner prescribed, declare the area notified under section 3 or any portion thereof to be a notified area for the purposes of this Act in respect of the commercial crop or crops notified under section 3 or any of them. From the date of issue of such notification or from such later date as may be specified therein, no person shall within the notified area set up, establish or continue or allow to be continued any place ³ [for the purchase, sale, storage, weighing, pressing or processing of the commercial crop or crops] so notified, except under a licence granted by the ¹ [Provincial Government] and except in accordance with the provisions of this Act, the rules and by-laws made thereunder and the conditions specified in the licence.

Declaration of notified area.

Explanation.—A person shall not be deemed to set up, establish or continue or allow to be continued a place as a place for the purchase and sale of a commercial crop within the meaning of this section if he sells his own crop or if he purchases in quantities not exceeding those prescribed, any commercial crop for his private use.

(2) The ¹ [Provincial Government] may, on the report of the collector of the district or of the market committee, and after such enquiry as they deem fit, cancel or suspend any licence granted under sub-section (1).

5. The [Provincial Government] shall establish a market committee for every notified area. It shall be the duty of the market committee to enforce the provisions of this Act and the rules and by-laws made thereunder in such notified

Establishment of market committee.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

³ These words were substituted for the words "for the purchase and sale of the commercial crop or crops" by section 2 of the Madras Commercial Crops Markets (Second Amendment) Act, 1936 (Madras Act XV of 1936).

area and when so required by the ¹ [Provincial Government] to establish a market therein providing for such facilities, as the ¹ [Provincial Government] may from time to time direct, in connexion with the purchase and sale of the commercial crop or crops concerned.

Power of Provincial Government to alter a notified area.

² [5-A. Subject to the provisions of section 3, the ¹ [Provincial Government] may by notification—

- (a) exclude from a notified area, any area comprised therein and defined in such notification ; or
- (b) include in any notified area, any area defined in such notification.]

Constitution of committee.

6. (1) Every market committee shall consist of twelve members. Of these—

- (i) five shall be persons elected from among themselves by the growers of the commercial crop or crops in such area as the ¹ [Provincial Government] may determine ;
- (ii) two shall be persons nominated by the ¹ [Provincial Government] ;
- (iii) one shall be a person elected—
 - (a) by the councillors of the Corporation of Madras from among themselves, in case the notified area is the city of Madras,
 - (b) by the members of the municipal council from among themselves, in case the notified area is a municipality,
 - (c) by the members of the taluk board from among themselves, in case the notified area is a non-panchayat area,
 - (d) by the members of the panchayat from among themselves, in case the notified area is a panchayat area, or
 - (e) by the members of all the local bodies concerned from among themselves, in case the notified area falls within the jurisdiction of more than one local body ; and

³ [(iv) four shall be persons elected from among themselves by—

- (a) persons licensed under section 4, and
- (b) buyers, sellers, and buyers and sellers in the notified area of the commercial crop or of any of the commercial crops concerned, registered as such under the rules prescribed in that behalf for a period of not less than one year :]

⁴ [Provided that where the ¹ [Provincial Government] establish a market committee for any notified area for the first time, all the members of such committee may be appointed

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This section was inserted by section 2 of the Madras Commercial Crops Markets (Amendment) Act, 1936 (Madras Act IX of 1936).

³ This clause was substituted for the original clause (iv) by section 3 (1) of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

⁴ This proviso was added by section 3 (i) of the Madras Commercial Crops Markets (Amendment) Act, 1936 (Madras Act IX of 1936).

by the ¹[Provincial Government] and every member so appointed shall hold office for a period of one year from the date of his appointment.]

(2) Every member ²[other than a member appointed under the proviso to sub-section (1)] shall hold office for a period of three years from the date of his election or nomination, as the case may be :

Provided that a member elected under clause (iii) ³[or clause (iv)] of sub-section (1) shall cease to hold office as member if he ceases to be a member of the electorate by which he was elected :

⁴[Provided further that a member of the committee shall cease to hold his office if he absents himself from three consecutive meetings of the committee.

Explanation.—For the purpose of this proviso, no meeting of the committee from which a member absents himself shall be counted against him, if due notice of that meeting had not been given to him.

Where a person ceases to be a member under this proviso, the chairman shall at once intimate the fact in writing to such person and report the same to the committee at its next meeting. If such person applies for restoration *suo motu* to the committee on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the committee may at the meeting next after the receipt of such application restore him to his office of member, provided that a member shall not be so restored more than twice during his term of office.]

(3) Every market committee shall elect one of its members to be its chairman.

7. Every market committee shall be a body corporate by such name as the ¹[Provincial Government] may specify in the notification establishing it, shall have perpetual succession and a common seal, may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words, figure and brackets were inserted by section 3 (ii) of the Madras Commercial Crops Markets (Amendment) Act, 1936 (Madras Act IX of 1936).

³ This expression was inserted by section 3 (2) of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

⁴ This proviso was added by section 3 of the Madras Commercial Crops Markets (Second Amendment) Act, 1936 (Madras Act XV of 1936).

Sub-committees and joint committees and delegation of powers.

8. The market committee may appoint one or more of its members to be a sub-committee or to a joint committee for the conduct of any work or to report on any matter, and may delegate to any one or more of its members such of its own powers or duties as it may think fit.

Appointments and salaries of officers and servants of market committee.

9. (1) Subject to such rules as may be made by the ¹ [Provincial Government] in this behalf, a market committee may employ such officers and servants as may be necessary for the management of the market, may pay such officers and servants such salaries as it may think fit and shall have power to control and punish them. The committee may also provide for the payment to its officers and servants of such leave allowances, pensions, gratuities or compassionate allowances as it deems proper; and may contribute to any provident fund which may be established for the benefit of such officers and servants.

² [(2) The committee shall, in the case of any servant of the Crown whom it employs, make such contributions towards his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be paid by him or on his behalf.]

Execution of contracts.

10. (1) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by the chairman and two other members of the committee.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a market committee.

Levy of fees.

11. The market committee shall, subject to such rules as may be made in this behalf, levy fees on the commercial crop or crops bought and sold ³ [. . .] in the notified area.

Levy of subscriptions for market reports, etc.

⁴ [11-A. The market committee may, subject to such rules as may be made in this behalf, levy a subscription for collecting and disseminating among the subscribers, information as to any matter relating to crop statistics or marketing in respect of the commercial crop or any of the commercial crops concerned.]

Market Committee Fund.

12. (1) All moneys received by a market committee shall be paid into a fund to be called the 'Market Committee Fund.' All expenditure incurred by the market committee under or

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This sub-section was substituted for the original sub-section by Schedule II, *ibid.*

³ The words "by licensees" were omitted by section 4 of the Madras Commercial Crops Markets (Second Amendment) Act, 1936 (Madras Act XV of 1936).

⁴ This section was inserted by section 4 of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

for the purposes of this Act shall be defrayed out of the said fund ; and any surplus remaining after such expenditure has been met shall be invested in such manner as may be prescribed by rules.

(2) (a) Every market committee shall out of its fund pay to the ¹ [Provincial Government] the cost of any special or additional staff employed by the ¹ [Provincial Government] in consultation with the committee for giving effect to the provisions of this Act in the notified area.

(b) The ¹ [Provincial Government] shall determine the cost of such special or additional staff and shall, where the staff is employed for the purposes of more than one market committee, apportion such cost among the committees concerned in such manner as they think fit. The decision of the ¹ [Provincial Government] determining the amount payable by any market committee shall be final.

13. Subject to the provisions of section 12 the market committee fund shall be expended for the following purposes only :—

Purposes for which the fund may be expended.

- (i) the acquisition of a site or sites for the market ;
- (ii) the maintenance and improvement of the market ;
- (iii) the construction and repair of buildings which are necessary for the purposes of such market and for the health, convenience and safety of the persons using it ;
- (iv) the provision and maintenance of standard weights and measures ;
- (v) the pay, pensions, leave allowances, gratuities, compassionate allowances and contributions towards leave allowances, pensions or provident fund of the officers and servants employed by the market committee ;
- (vi) the expenses of and incidental to elections ;
- (vii) the payment of interest on loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans ;
- (viii) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the commercial crop or crops concerned ² [. . .] ;
- ³ [(ix) schemes for the extension or cultural improvement of the commercial crop or crops concerned within the notified area, including the grant, subject to the approval of the Provincial Government, of financial aid to schemes for such extension or improvement within such area, undertaken by other bodies or individuals ; and]
- ⁴ [(x)] propaganda in favour of agricultural improvement and thrift.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² The word "and" was omitted by section 5 (i) of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

³ This clause was inserted by section 5 (ii), *ibid.*

⁴ Original clause (ix) was renumbered as clause (x) by *ibid.*

No trade allowance permissible except as prescribed by rules or by-laws.

14. No trade allowance, other than an allowance prescribed by rules or by-laws made under this Act, shall be made or received in a notified area by any person in any transaction in respect of the commercial crop or crops concerned and no Civil Court shall, in any suit or proceeding arising out of any such transaction, have regard to any trade allowance not so prescribed.

Explanation.—Every deduction other than deductions on account of deviation from sample, when the purchase is made by sample, or of deviation from standard, when the purchase is made by reference to a known standard, or on account of difference between the actual weight of the sacking and the standard weight, or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this Act.

Power to borrow.

15. (1) Every market committee may, with the previous sanction of the ¹ [Provincial Government], raise the money required for carrying out the purposes for which it is established on the security of any property vested in and belonging to the market committee, and of any fees leviable by the market committee under this Act. The committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the ¹ [Provincial Government].

(2) The conditions under which such money or loan shall be raised and the time within which the same shall be repayable shall be subject to the previous sanction of the ¹ [Provincial Government].

Supersession of market committee.

16. (1) If, in their opinion, a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, the ¹ [Provincial Government] may, by notification in the ² [Official Gazette], supersede such committee :

Provided that before issuing a notification under this sub-section, the ¹ [Provincial Government] shall give a reasonable opportunity to the market committee for showing cause against the proposal and shall consider the explanations and objections, if any, of the market committee.

(2) Upon the publication of a notification under sub-section (1) superseding a market committee, the following consequences shall ensue :—

(a) all the members as well as the chairman of the market committee shall, as from the date of such publication, be deemed to have vacated their offices ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(b) the ¹[Provincial Government] may, at their discretion, by order, either constitute a new committee under section 5 or make such arrangements for the carrying out of the functions of the committee, as the ¹[Provincial Government] may think fit ; and

(c) all the assets vested in the committee shall, subject to all its liabilities, vest in the ¹[Provincial Government].

(3) (a) If the ¹[Provincial Government] make an order under clause (b) of sub-section (2), they shall transfer the assets and liabilities of the market committee, as on the date of such transfer, to the new committee constituted under section 5 or to the person or persons, if any, appointed for carrying out the functions of the committee, as the case may be.

(b) If the ¹[Provincial Government] do not make such an order, they shall transfer all the assets of the market committee which remain after the satisfaction of all its liabilities, to the local body within whose jurisdiction the market committee is situated, or if there is more than one such local body, to each of such bodies in such proportion as the ¹[Provincial Government] may determine.

(c) Any local body to which any assets have been transferred under clause (b) shall employ such assets for any object of public utility in the area within its jurisdiction.

17. Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after conviction therefor. Penalties.

18. (1) The ¹[Provincial Government] may, either generally or specially for any notified area or areas, make rules consistent with this Act for carrying out all or any of the purposes thereof. Rules.

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

(i) the election and nomination of members of a market committee, and the manner of election, the preparation and revision of lists of voters from time to time, and the payment of all expenditure in connexion with or incidental to such election ;

(ii) the election of the chairman of a market committee and his term of office ;

(iii) the filling of casual vacancies in the office of chairman or member of a market committee ;

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

- (iv) the maximum annual fees which may be levied by the market committee in respect of licences granted ¹ [. . .] under section 4 and on the commercial crop or crops bought and sold ¹ [. . .] in the notified area, and the recovery of such fees ;
- ² [(iv-a) the maximum rates of subscriptions which may be levied by the market committee under section 11-A, and the recovery of such subscriptions ;]
- (v) the issue by a market committee of licences to brokers, weighmen, measurers and surveyors, the form in which, and the conditions under which, such licences shall be issued or renewed, and the fees to be charged therefor ;
- (vi) the kind and description of the scales, weights and measures which alone may be used in transactions in the commercial crop or crops in a notified area ;
- (vii) the periodical inspection, verification and correction of all scales, weights and measures in use in a notified area ;
- (viii) the trade allowances which may be made or received by any person in any transaction in a commercial crop or crops in a notified area ;
- (ix) the provision of facilities for the settlement of any dispute between a buyer and seller of a commercial crop or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, dirt or impurities or deductions from any cause ;
- (x) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of a commercial crop ;
- (xi) the provision of accommodation for storing any commercial crops brought into the market ;
- (xii) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates ;
- (xiii) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts, and the charges, if any, to be made for such audit ;
- (xiv) the preparation and submission for sanction of an annual budget and the reports and returns to be furnished by a market committee ; and
- (xv) the investment and disposal of the surplus funds of a market committee.

¹ The words " to traders " and " by them " were omitted by section 5 of the Madras Commercial Crops Markets (Second Amendment) Act, 1936 (Madras Act XV of 1936).

² This clause was inserted by section 6 of the Madras Commercial Crops Markets (Amendment) Act, 1939 (Madras Act XIX of 1939).

(3) Any rule made under this section may provide that any contravention thereof or of any of the conditions of any licence issued or renewed thereunder shall be punishable with fine which may extend to two hundred rupees.

(4) (a) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(b) All rules made under this section shall be published in the ¹[Official Gazette] and on such publication shall have effect as if enacted in this Act.

(c) All such rules shall be laid ²[before both Chambers of the Provincial Legislature].

19. (1) Subject to any rules made by the ³[Provincial Government] under section 18 and with the previous sanction of the Collector of the district, a market committee may in respect of the market under its management make by-laws for the regulation of the business and the conditions of trading therein.

(2) Any by-law made under this section may provide that contravention thereof shall be punishable with fine which may extend to fifty rupees.

20. (1) No offence made punishable by this Act or any rule or by-law made thereunder shall be tried by a court inferior to that of a Presidency Magistrate or a Magistrate of the first class. Trial of offences.

(2) Prosecutions under this Act may be instituted by any person duly authorized in writing by the market committee in this behalf.

(3) All fines recovered from an offender shall be credited to provincial revenues and a grant equivalent to such fines shall be paid to the market committee.

21. All sums due from a market committee to the ³[Provincial Government] may be recovered in the same manner as arrears of land revenue. Recovery of sums due to Government from market committee.

22. With the previous sanction of the ³[Provincial Government] which may be accorded by general or special order, the Collector of the district may, by an order in writing, delegate to any revenue officer not below the rank of a tahsildar all or any of his powers or duties under this Act or the rules framed thereunder. Delegation of Collector's powers.

¹ These words were substituted for the words "*Fort St. George Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "on the table of the Legislative Council" by Schedule II, *ibid.*

³ These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid.*

THE MADRAS NAMBUDRI ACT, 1932.

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*(Chapter I—Preliminary.)*MADRAS ACT No. XXI OF 1933.¹

[THE MADRAS NAMBU DRI ACT, 1932.]

[1st August 1933.]

An Act to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not governed by the Marumakkattayam law of inheritance.

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities, not governed by the Marumakkattayam law of inheritance ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title
and
application.

1. (1) This Act may be called the Madras Nambudri Act, 1932.

(2) It shall apply—

- (a) to all Nambudri Brahmans in the Presidency of Madras who are not governed by the Marumakkattayam law of inheritance ; and
- (b) to all Nambudri Brahmans outside the said Presidency, not governed by the said law, in respect of immovable property situated within it.

Definitions.

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

- (a) ' anandravan ' means any member of the illom other than the karnavan ;
- (b) ' illom ' means all the members of a Nambudri joint family with community of property and includes a ' mana ' ;

Explanation.—A female shall on her marriage cease to be a member of the illom in which she was born and become a member of the illom of her husband ;

- (c) ' karnavan ' means the oldest male member of an illom in whom the right to management of its properties vests or in the absence of a male member the senior female member ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th August 1931—Part IV, pages 224-225.

(Chapter I—Preliminary.) Chapter II—Illom and its Management.)

Explanation.—The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages ;

(d) 'major' means a person who has attained eighteen years of age ; and

(e) 'minor' means a person who has not attained eighteen years of age.

CHAPTER II.

ILLOM AND ITS MANAGEMENT.

3. (1) Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties.

(2) Such proprietary interest shall not in any manner be impaired or affected by reason of the deviation of such member from any orthodox custom or usage.

4. The karnavan shall keep true and correct accounts of the income and expenditure of the illom. The accounts of each year shall be available for inspection at the illom house by the major anandravans once in a year throughout the month of Kanni following such year and any such anandravan may take copies of or extracts from such accounts.

5. (1) Except for consideration and for illom necessity or benefit and with the written consent of the majority of the major members of the illom, no karnavan shall sell immovable property of the illom or mortgage with possession or lease such property, for a period exceeding twelve years.

(2) No mortgage with possession or lease with premium returnable wholly or in part, of any such property executed by a karnavan for a period not exceeding twelve years shall be valid unless such mortgage or lease is for consideration and for illom necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant, in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part, or the renewal of an existing kanom.

6. No debt contracted or mortgage without possession executed by a karnavan shall bind the illom unless the debt is contracted or the mortgage is executed for illom necessity.

7. Every member of an illom, whether living in the illom house or not, shall be entitled to maintenance consistent with the income and the circumstances of the illom.

8. Any karnavan may by a registered document give up his rights as karnavan.

Proprietary
right of
members in
illom

Duty of
karnavan to
keep
accounts.

Alienation
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ment of
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CHAPTER III.

MARRIAGE.

Right of Nambudri male to marry in his community.

9. Notwithstanding any custom or usage to the contrary every major male Nambudri shall, subject to the provisions of section 5 of the Madras Marumakkattayam Act, 1932, and any other law for the time being in force, be at liberty to marry in his own community.

Right of major Nambudri female to have her marriage performed and recover the marriage expenses and dowry.

10. (1) Any unmarried major female member of an illom who marries, or has her marriage with a male belonging to her community performed with her consent by her father or any other member of her illom, shall be entitled to recover from the illom properties, the reasonable expenses of such marriage as well as her dowry :

Provided that not less than three months' previous notice in writing of the marriage shall be given to the karnavan.

(2) The amount recoverable under sub-section (1) shall not exceed one-third of the value of the share which would fall to such female member if a division *per capita* of the properties of the illom were made among all the members thereof living on the date of the marriage, or rupees ten thousand, whichever is less :

Provided that where an illom consists of females only, the amount recoverable under this sub-section may extend to the full value of her share.

Nambudri not to marry a Nambudri woman during lifetime of a Nambudri wife except in certain cases.

11. No Nambudri who has a Nambudri wife living shall marry another Nambudri woman except in the following cases :—

- (a) where the wife is afflicted with an incurable disease for more than five years,
- (b) where the wife has not borne him any child within ten years of her marriage,
- (c) where the wife has become an outcaste.

Penalty for marrying in contravention of section 11.

12. (1) Any Nambudri male who contracts a marriage in contravention of section 11 shall be punished with fine which may extend to one thousand rupees, but a marriage so contracted shall not be deemed to be invalid.

(2) Any person who conducts, directs or abets the performance of any marriage in contravention of section 11 shall be punished with fine which may extend to one hundred rupees.

Dowry to be separate property of Nambudri female.

13. The dowry given to a Nambudri female or recovered by her under section 10 shall be her separate property.

(Chapter IV—Guardianship. Chapter V—Intestate Succession.)

CHAPTER IV.

GUARDIANSHIP.

14. (1) Subject to the provisions of sub-section (2), the following persons in the order named shall be the legal guardian of a minor, male or female, in respect of his or her person and separate property, namely, father, mother, full brothers in the order of seniority, paternal grandfather, paternal uncles in the order of seniority, father's mother and consanguine brothers in the order of seniority.

(2) The husband shall be the legal guardian of his minor wife in respect of her person and separate property.

VIII of 1890

15. Nothing contained in section 14 shall be deemed to affect the operation of the Guardians and Wards

Saving of the operation of Guardians and Wards Act, 1890.

CHAPTER V.

INTESTATE SUCCESSION.

16. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Property as to which a person is considered to have died intestate.

Illustrations.

- (i) *A* has left no will. He has died intestate in respect of the whole of his property.
- (ii) *A* has left a will whereby he has appointed *B* his executor but the will contains no other provisions. *A* has died intestate in respect of the distribution of his property.
- (iii) *A* has bequeathed his whole property for an illegal purpose. *A* has died intestate in respect of the distribution of his property.
- (iv) *A* bequeathed Rs. 1,000 to *B* and Rs. 1,000 to the eldest son of *C* and made no other bequest and died leaving Rs. 2,000. *C* died before *A* without ever having had a son. *A* has died intestate in respect of the distribution of Rs. 1,000.

17. On the death intestate of a Nambudri male, his property which is self-acquired or separate shall, subject to the provisions of section 30 of the Madras Marumakkattayam Act, 1932, devolve in the order and according to the rules contained in sections 18, 19 and 20.

Devolution of property left by Nambudri male intestate.

18. Where the intestate has left surviving him by a marriage or marriages in his own community one or more of the following relations, namely :—

- (a) a widow or widows,
- (b) a son or sons,
- (c) an unmarried daughter or unmarried daughters, and

Where the intestate has left widow, children or lineal descendants.

(Chapter V—Intestate Succession.)

(d) a lineal descendant or descendants (other than married females) in the male line through a deceased son or sons,

the whole of the property shall belong to such surviving relation or relations.

Rules of distribution in cases falling under section 18.

19. The distribution of the property among the heirs referred to in section 18 shall be made in accordance with the following rules :—

- (i) The widow or, if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a son or unmarried daughter.
- (ii) Every son or unmarried daughter shall be entitled to an equal share :

Provided that if a son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son would have taken had he survived the intestate.

- (iii) The sons and unmarried daughters of a deceased son shall be entitled in equal shares to what their father would have taken had he survived the intestate :

Provided that if a son's son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son's son would have taken had he survived the intestate.

- (iv) In like manner, the property shall go to the surviving lineal descendants of the intestate in the male line (other than married females) where such descendants are in the degree of great-grandchildren or in a more remote degree.

Explanation.—The descendants of a son, son's son or other male descendant in the male line shall not be entitled to any share in such property, if such son, son's son or other descendant is alive at the time of the death of the intestate.

Illustrations.

- (1) *Z* dies intestate leaving two widows *A* and *B*, a son *C*, a grandson *D* by such son, a married daughter *E*, an unmarried daughter *F* and by a deceased son, a grandson *G*, a married grand-daughter *H* and an unmarried granddaughter *J*. *A*, *B*, *C* and *F* each gets one-fifth of the property, *G* and *J* one-tenth each and *D*, *E* and *H* do not get any share.
- (2) *Z* dies intestate leaving no widow but leaving *A* a son, *B* an unmarried daughter, *E* a grandson and *F* a unmarried grand-daughter by a deceased son *C*, an

(Chapter V—Intestate Succession.)

unmarried grand-daughter *G* by a deceased son *D* and two great-grandsons *H* and *J* by a deceased son of *D*. *A* and *B* will each be entitled to one-fourth of the property, *E* and *F* will each be entitled to one-eighth, *G* will be entitled to one-eighth and *H* and *J* to one-sixteenth each.

- (3) *Z* dies intestate leaving no widow or child but leaving three grandsons *A*, *B* and *C* by a deceased son *X* and two unmarried grand-daughters *D* and *E* by a deceased son *Y*. *A*, *B* and *C* will each be entitled to one-sixth and *D* and *E* will each be entitled to one-fourth of *Z*'s property.

20. (1) Where the intestate has not left surviving him any of the heirs mentioned in section 18, the property shall devolve on the relations and in the order specified below :—

- (1) Father ;
- (2) Mother ;
- (3) Brothers and sisters ;
- (4) Sons and unmarried daughters of brothers ;
- (5) Father's father ;
- (6) Paternal uncles ;
- (7) Sons of paternal uncles ;
- (8) Sisters' children ;
- (9) Father's paternal grandfather ;
- (10) Father's paternal grandfather's descendants in the male line, the nearer excluding the more remote ; and
- (11) Father's remoter ascendants in the male line and their descendants, the nearer ascendant and his descendants excluding the more remote ascendant and his descendants and among the descendants of the same ascendant, the nearer excluding the more remote.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally.

21. (1) On the death intestate of a married Nambudri female, her property which is self-acquired or separate shall devolve on the relations and in the order specified below :—

- (1) Sons and daughters ;
- (2) Children of deceased sons ;
- (3) Sons of deceased daughters ;
- (4) Husband ;
- (5) Father ;
- (6) Mother ;
- (7) Brothers and sisters ;
- (8) Brothers' and sisters' children ;
- (9) Relations of her husband mentioned in section 18 and not included in clauses (1) and (2) ; and
- (10) Relations of her husband mentioned in sub-section (1) of section 20 in the order specified therein.

Devolution of property where the intestate has not left any of the heirs mentioned in section 18.

Devolution of property left by a married Nambudri female intestate.

(Chapter V—Intestate Succession. Chapter VI—Partition.)

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally :

Provided that where the property devolves on the relations of the husband referred to in clause (9) of sub-section (1), it shall be divisible among them in accordance with the rules laid down in section 19.

Devolution of property left by an unmarried Nambudri female intestate.

22. On the death intestate of an unmarried Nambudri female, the whole of her property which is self-acquired or separate shall devolve on her parents. In the absence of her parents, it shall devolve on her brothers and sisters in equal shares and in their absence it shall devolve on her illom.

CHAPTER VI.

PARTITION.

Right of member to claim partition.

23. (1) Any member of an illom, male or female, may claim to take his or her share of all the properties of the illom over which it has power of disposal and separate from the illom :

Provided that where a male member of an illom whose wife is also a member thereof claims to separate from the illom, he shall do so on behalf of himself and his wife and the shares of the husband and wife shall be allotted to them jointly ; and save as provided in section 24, neither the husband nor the wife shall be entitled to claim partition from the other.

(2) (a) A member of an illom separating from it under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

(b) A husband and wife separating from an illom under the proviso to sub-section (1) shall be entitled to such share of the illom properties as would fall to them if a division *per capita* were made among all the members of the illom then living.

(3) No claim to separate from an illom made on behalf of a minor member shall be allowed by any court unless it is satisfied that such separation would be to the benefit of such minor.

Partition on change of religion.

24. (1) Any member of an illom who has changed his or her religion may claim, or be compelled by any other member of the illom, to take his or her share of the illom properties and separate from the illom.

(2) The member who claims or is compelled to divide from the illom under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

(Chapter VI—Partition. Chapter VII—Miscellaneous.)

25. The share obtained by any member separating from an illom under sub-section (1) of section 23 or under section 24 shall be the separate property of such member :

Character of
property
taken on
partition.

Provided that the share obtained by a husband and wife separating jointly under the proviso to sub-section (1) of section 23 shall be taken by them with the incidents of illom property.

CHAPTER VII.

MISCELLANEOUS.

26. Nothing contained in this Act shall be deemed to affect any law, custom or usage applicable to Nambudri Brahmans except to the extent expressly laid down in this Act.

27. The provisions of this Act shall also apply to the following communities in the Malabar district who are governed by the Marumakkattayam law of inheritance and who follow customs and usages similar to those of the Nambudris, namely, Adigal, Elayads, Moosads, Pitarans and Numbissans.

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THE MADRAS MARUMAKKATTAYAM ACT, 1932.

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(Chapter I—Preliminary)

MADRAS ACT No. XXII OF 1933.¹

[THE MADRAS MARUMAKKATTAYAM ACT, 1932.]

[1st August 1933.]

An Act to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the Marumakkattayam law of inheritance.

WHEREAS it is expedient to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the Marumakkattayam law of inheritance ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title
and applica-
tion.

1. (1) This Act may be called the Madras Marumakkattayam Act, 1932.

(2) It shall apply—

- (a) to all Hindus in the Presidency of Madras who are governed by the Marumakkattayam law of inheritance ;
- (b) to all Hindus outside the said Presidency governed by the said law, in respect of properties within it ; and
- (c) to all Hindu males, whether governed by the said law or not, who have contracted or may contract marital alliances with Hindu females governed by the said law.

Repeal of
Madras Act
IV of 1896.

2. The Malabar Marriage Act, 1896, in so far as it is applicable to Hindus following the Marumakkattayam law of inheritance, is hereby repealed.

Definitions.

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

- (a) 'anandravan' means any member of a tarwad other than the karnavan ;
- (b) 'Collector' means the Collector of Malabar or South Kanara, as the case may be, and includes any Revenue Divisional Officer who is authorized by the Collector to perform his functions under this Act ;
- (c) 'karnavan' means the oldest male member of a tarwad or tavazhi, as the case may be, in whom the right to management of its properties vests or, in the absence of a male member, the oldest female member or where by custom or family usage the right to such management vests in the oldest female member, such female member ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th August 1931—Part IV, page 248.

(Chapter I—Preliminary. Chapter II—Marriage and its Dissolution.)

- (d) 'major' means a person who has attained eighteen years of age ;
- (e) 'marumakkattayam' means the system of inheritance in which descent is traced in the female line but does not include the system of inheritance known as the Aliyasantana ;
- (f) 'marumakkattayi' means a person governed by the Marumakkattayam law of inheritance ;
- (g) 'minor' means a person who has not attained eighteen years of age ;
- (h) 'prescribed' means prescribed by rules made under this Act ;
- (i) 'tarwad' means the group of persons forming a joint family with community of property governed by the Marumakkattayam law of inheritance ;
- (j) (i) 'tavazhi' used in relation to a female means the group of persons consisting of that female, her children and all her descendants in the female line ; and
 (ii) 'tavazhi' used in relation to a male means the tavazhi of the mother of that male.

CHAPTER II.

MARRIAGE AND ITS DISSOLUTION.

4. (1) Save as provided in section 5, the conjugal union of a marumakkattayi female with—
- Marriages
valid under
the Act.
- (i) a male belonging to the same community as such female, or
 - (ii) a male, not belonging to such community and whether a marumakkattayi or not, shall be deemed for all purposes to be a legal marriage if—
 - (a) the parties to the union are not related to each other in such degree of consanguinity or affinity that conjugal union between them is prohibited by any custom or usage of the community to which they belong or either of them belongs ; and
 - (b) the union—
 - (i) was openly solemnized in accordance with the customary ceremonies, if any, prevailing in the community to which the parties belong or either of them belongs, before the date on which this Act comes into force and is subsisting on such date ; or
 - (ii) is so solemnized in accordance with such ceremonies on or after the date on which this Act comes into force and, where either or both

(Chapter II—Marriage and its Dissolution.)

the parties are minors, with the consent of the guardian or guardians of such minor or minors ;
or

(iii) was registered as a marriage under the Malabar Marriage Act, 1896, before the date on which this Act comes into force and is subsisting on such date.

Madras Act
IV of 1896.

(2) A conjugal union between minors or between a minor and a major which would otherwise be a valid marriage under sub-section (1) shall not be deemed to be invalid merely on the ground that the consent of the guardians or guardian of such minors or minor was not obtained to the union.

(3) Notice of every marriage contracted on or after the date on which this Act comes into force shall be given by such person, to such authority, in such form and within such time as may be prescribed. Failure to give such notice shall be punishable with fine which may extend to fifty rupees but such failure shall not invalidate the marriage or affect the legal rights of the parties to or the issue of, such marriage.

Marriage during continuance of prior marriage void.

5. (1) During the continuance of a prior marriage which is valid under section 4, any marriage contracted by either of the parties thereto on or after the date on which this Act comes into force shall be void.

(2) On or after the said date, any marriage contracted by a male with a marumakkattayi female, during the continuance of a prior marriage of such male, shall be void, notwithstanding that his personal law permits of polygamy.

Dissolution of marriage.

6. A marriage valid under section 4 may be dissolved—

- (a) by a registered instrument of dissolution executed by the parties thereto ; or
- (b) by an order of dissolution as hereinafter provided :

Provided that if either or both the parties is or are minors, the marriage shall not be dissolved until after the party has become a major or both the parties have become majors as the case may be.

Petition for dissolution.

7. (1) A husband or wife may present a petition for dissolution of the marriage—

- (i) if the place where the marriage was contracted or the respondent has a permanent dwelling or actually and voluntarily resides or carries on business or personally works for gain, at the time the petition is presented, is situated within the local limits of the jurisdiction of the Court of a District Munsif, in such court ;
- (ii) if such place is not situated within the local limits of the jurisdiction of the court of any District Munsif, in the court of the Subordinate Judge

(Chapter II—*Marriage and its Dissolution. Chapter III—Maintenance and Guardianship.*)

or if there is no such court, in the Court of the District Judge, within the local limits of whose jurisdiction such place is situated ; and

(iii) if such place is situated within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Madras, in the Madras City Civil Court.

(2) The petition shall specify the place where and the date on which the marriage was contracted and if the respondent was a minor at the time of the marriage, the name and address of the guardian, if any, with whose consent the marriage was contracted.

8. A copy of such petition shall be served at the expense of the petitioner on the respondent.

Service of copy of petition on respondent.

9. On the motion of the petitioner made not earlier than six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the court shall, on being satisfied after such inquiry as it thinks fit that a marriage which is valid under section 4 was contracted between the parties, by order in writing declare the marriage dissolved. The dissolution shall take effect from the date of such order.

Order of dissolution.

v of 1908.

10. The provisions in the Code of Civil Procedure, 1908, shall, so far as may be, apply to petitions under this Chapter.

Application of the Code of Civil Procedure, 1908, to petitions.

11. No Court shall entertain a suit for restitution of conjugal rights between the parties to a marriage valid under section 4.

Bar of suit for restitution of conjugal rights.

12. Nothing contained in this Chapter shall apply to the marriage of any Nambudri woman following the Marumakkattayam law of inheritance.

Chapter not to apply to marriages of Nambudri women.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

13. (1) The wife and minor children other than married minor daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or the father, as the case may be :

Maintenance of wife and minor children.

Provided that the wife shall not be entitled to maintenance from the husband if she refuses to live with him without just cause.

(2) Nothing contained in sub-section (1) shall affect the right of any person to maintenance from his or her tarwad or tavazhi properties.

(Chapter III—Maintenance and Guardianship. Chapter IV—
Intestate Succession.)

(3) In awarding maintenance under sub-section (1) the Court shall have due regard to the means and circumstances of the person against and by whom maintenance is claimed and to the reasonable wants of the person claiming maintenance.

Guardian-
ship of
minor wife
and children.

14. The husband shall be the guardian of his minor wife in respect of her person and property and, subject to the provisions of section 15, the father shall be the guardian of his minor children, other than married minor daughters under the guardianship of their husbands, in respect of their person and property :

Provided that such guardianship shall not extend to the right and interest of the wife or children in respect of their tarwad or tavazhi properties :

Provided further that nothing contained in this section shall apply to a female member of any of the tarwads included in the Schedule or her children, where such female member resides in her own tarwad house and not with her husband.

Guardian-
ship of
minor
children by
husband
deceased or
divorced.

15. The mother shall be the guardian of the person and property of her minor children if their father is dead or the marriage of their parents is dissolved.

Saving
of the
operation
of the
Guardians
and Wards
Act, 1890.

16. Nothing contained in sections 14 and 15 shall be deemed to affect the operation of the Guardians and Wards VIII o 1890. Act, 1890.

CHAPTER IV.

INTESTATE SUCCESSION.

Property
as to
which a
person is
considered
to have
died
intestate.

17. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

- (i) *A* has left no will. He has died intestate in respect of the whole of his property.
- (ii) *A* has left a will whereby he has appointed *B* his executor but the will contains no other provisions. *A* has died intestate in respect of the distribution of his property.
- (iii) *A* has bequeathed his whole property for an illegal purpose. *A* has died intestate in respect of the distribution of his property.

(Chapter IV—Intestate Succession.)

- (iv) *A* bequeathed Rs. 1,000 to *B* and Rs. 1,000 to the eldest son of *C* and made no other bequest and died leaving Rs. 2,000. *C* died before *A* without ever having had a son. *A* has died intestate in respect of the distribution of Rs. 1,000.

18. On the death intestate of a marumakkattayi male, his property, which is self-acquired or separate, shall devolve in the order and according to the rules contained in sections 19, 20, 21, 22, 23 and 24.

Devolution of property left by marumakkattayi male intestate.

19. Where the intestate has left surviving him a child or children or a lineal descendant or descendants in the female line through a deceased daughter or daughters, or both, and also his mother or a widow or widows or both his mother and a widow or widows, the whole of the property shall belong to them. In the absence of the mother and widow, the whole of the property shall belong to the child or children and such lineal descendant or descendants; and in the absence of the mother, widow and child, the whole of the property shall belong to such lineal descendant or descendants.

Where intestate has left mother, widow, children and lineal descendants.

20. The distribution of the property among the heirs referred to in section 19 shall be made in accordance with the following rules :-

Rules of distribution in cases falling under section 19.

- (i) The widow or, if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a child.
- (ii) The mother shall be entitled to a share equal to that of a child.
- (iii) Every child (son or daughter) shall be entitled to an equal share :

Provided that if a daughter has pre-deceased the intestate, the lineal descendants of such daughter in the female line, shall be entitled to the share which such daughter would have taken had she survived the intestate.

- (iv) Grandchildren by a deceased daughter, shall be entitled in equal shares to what their mother would have taken had she survived the intestate :

Provided that if a granddaughter has pre-deceased the intestate, the lineal descendants of such granddaughter in the female line, shall be entitled to the share which such granddaughter would have taken had she survived the intestate.

(Chapter IV—Intestate Succession.)

- (v) In like manner the property shall go to the surviving lineal descendants of the intestate in the female line where such descendants are in the degree of great grandchildren or in a more remote degree.

Explanation I.—The descendants of a daughter, daughter's daughter or other female descendant in the female line, shall not be entitled to any share in such property if such daughter, daughter's daughter or other descendant is alive at the time of the death of the intestate.

Explanation II.—The descendants of a son who has pre-deceased the intestate shall not be entitled to any share in such property.

Illustrations.

- (1) *Z* dies intestate leaving two widows *A* and *B*, his mother *C*, a son *D*, a daughter *E*, a granddaughter *F* by such daughter, the lineal descendants of a deceased daughter *G* and the lineal descendants of a deceased son *H*. *A*, *B*, *C*, *D* and *E* each gets one-sixth and the lineal descendants of *G* get one-sixth of the property. The granddaughter *F* and the lineal descendants of *H* do not get any share.
- (2) *Z* dies intestate leaving no widow or mother, but leaving *A* a son, *B* a daughter, *E* and *F* a grandson and a granddaughter by a deceased daughter *C*, and a granddaughter *G* by a deceased daughter *D* and two great granddaughters *H* and *J* by a deceased daughter of *D*. *A* and *B* will each be entitled to one-fourth of *Z*'s property, *E* and *F* will each be entitled to one-eighth, *G* will be entitled to one-eighth and *H* and *J* each to one-sixteenth.
- (3) *Z* dies intestate leaving no mother, widow or child, but leaving three grandchildren, *A*, *B* and *C* by a daughter *X* who has pre-deceased him and two grandchildren *D* and *E* by a daughter *Y* who has also pre-deceased him. *A*, *B* and *C* will each be entitled to one-sixth, and *D* and *E* will each be entitled to one-fourth of *Z*'s property.

Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both.

21. Where the intestate has not left surviving him any child or lineal descendant in the female line through a deceased daughter but has left his mother and a widow or widows, one-half of the property shall devolve on his mother and the other half on his widow or widows in equal shares. In the absence of a widow, the whole of the property shall belong to the mother.

(Chapter IV—Intestate Succession.)

22. Where the intestate has not left surviving him his mother or any child or lineal descendant in the female line through a deceased daughter but has left a widow or widows and his mother's tavazhi, one-half of the property shall devolve on his widow or widows and the other half on his mother's tavazhi. In the absence of the mother's tavazhi the whole of the property shall belong to the widow or widows and in the absence of a widow, the whole of the property shall belong to the mother's tavazhi.

Rules of distribution where intestate has left only widow or mother's tavazhi or both.

23. Where the intestate has not left surviving him any of the heirs mentioned in sections 19, 21 and 22 but has left his father and his maternal grandmother's tavazhi, one-half of the property shall devolve on his father and the other half on his maternal grandmother's tavazhi. In the absence of the maternal grandmother's tavazhi, the whole of the property shall belong to the father and in the absence of the father, the whole of the property shall belong to the maternal grandmother's tavazhi.

Rules of distribution where intestate has left only father and maternal grandmother's tavazhi.

24. Where the intestate has not left surviving him any of the heirs mentioned in sections 19, 21, 22 and 23, the property shall devolve on the tavazhi of his mother's maternal grandmother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

Rules of distribution where intestate has not left any of the heirs mentioned in sections 19, 21, 22 and 23.

25. On the death intestate of a marumakkattayi female, her property which is self-acquired or separate shall devolve in the order and according to the rules contained in sections 26, 27, 28 and 29.

Devolution of property left by marumakkattayi female intestate.

26. Where the intestate has left surviving her, children or lineal descendants in the female line through deceased daughters or both, the whole of the property shall belong to them.

Rules of distribution where intestate has left children and lineal descendants.

The provisions of clauses (iii), (iv) and (v) of section 20 and of Explanations I and II to that section shall apply to the distribution of the property among the children and lineal descendants of the intestate.

27. Where the intestate has not left surviving her any child or lineal descendant in the female line through a deceased daughter, the whole of the property shall devolve on her mother's tavazhi.

Rules of distribution where intestate has not left any child or lineal descendant.

(Chapter IV—Intestate Succession.)

Rules of distribution where intestate has not left any of the heirs mentioned in sections 26 and 27, but has left husband and maternal grandmother's tavazhi.

28. Where the intestate has not left surviving her any of the heirs mentioned in sections 26 and 27 but has left her husband and her maternal grandmother's tavazhi, one-half of the property shall devolve on her husband and the other half on her maternal grandmother's tavazhi. In the absence of the maternal grandmother's tavazhi, the whole of the property shall belong to the husband, and in the absence of the husband, the whole of the property shall belong to the maternal grandmother's tavazhi.

Rules of distribution where intestate has not left any of the heirs mentioned in sections 26, 27 and 28.

29. Where the intestate has not left surviving her any of the heirs mentioned in sections 26, 27 and 28, the property shall devolve on the tavazhi of her mother's maternal grandmother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

Devolution of property left by non-marumakkattayi male intestate.

30. (1) On the death intestate of a male not being a marumakkattayi

(i) who—

(a) has, before the date on which this Act comes into force, contracted a marriage with a marumakkattayi female which is valid under section 4 ; or

(b) has contracted on or after such date a marriage with a marumakkattayi female which is valid under that section ; and

(ii) who has left surviving him by such marriage or marriages one or more of the following relations, namely :—

(a) a widow or widows,

(b) children,

(c) lineal descendants in the female line through deceased daughters,

such relation or relations shall be entitled, if the intestate has also left relations who are heirs according to the personal law by which he is governed, to one-half of his property which is separate or self-acquired and if the intestate has left no such heirs, to the whole of such property :

Provided that the reasonable funeral expenses of the intestate shall first be deducted from such separate or self-acquired property.

(2) The property devolving on the relations referred to in sub-clauses (a), (b) and (c) of clause (ii) of sub-section

(Chapter IV—Intestate Succession. Chapter V—Tarwad and its Management.)

(1) shall be distributed among them in accordance with the rules contained in clauses (i), (iii), (iv) and (v) of section 20 and Explanations I and II to that section.

31. (1) The senior major male member among the children and other lineal descendants through deceased daughters of the intestate or in the absence of any such male member, the widow, or if there is more than one widow, the senior among such widows, shall be entitled to possession and management of the property referred to in sections 19, 21, 22 and 26 until division is effected.

Possession and management of property until division.

(2) In the case of the property referred to in section 30, if the intestate has left relations who are heirs according to the personal law by which he is governed, such heirs shall be entitled to possession and management of the property until division is effected.

(3) The karnavan of the tavazhi mentioned in sections 23, 24, 27, 28 and 29 shall be entitled to possession and management of the property referred to therein until division is effected.

CHAPTER V.

TARWAD AND ITS MANAGEMENT.

32. The karnavan shall keep true and correct accounts of the income and expenditure of the tarwad. The accounts of each year shall be available for inspection at the tarwad house by the major anandravans once in a year throughout the month of Kanni following such year and any such anandravan may take copies of or extracts from such accounts.

Duty of karnavan to keep accounts.

33. (1) Except for consideration and for tarwad necessity or benefit and with the written consent of the majority of the major members of the tarwad, no karnavan shall sell immovable property of the tarwad or mortgage with possession or lease such property for a period exceeding twelve years.

Alienation of immovable property by karnavan.

(2) No mortgage with possession or lease with premium returnable wholly or in part, of any such property executed by a karnavan for a period not exceeding twelve years, shall be valid unless such mortgage or lease is for consideration and for tarwad necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant, in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part, or the renewal of an existing kanom.

34. No debt contracted or mortgage without possession executed by a karnavan shall bind the tarwad unless the debt is contracted or the mortgage is executed, for tarwad necessity.

Debt contracted by karnavan when binding on tarwad.

(Chapter V—*Tarwad and its Management.*
Chapter VI—*Partition.*)

- Maintenance of members of tarwad.** 35. Every member of a tarwad, whether living in the tarwad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the tarwad.
- Relinquishment of karnavanship.** 36. Any karnavan may, by a registered document, give up his rights as karnavan.
- Application of chapter to tavazhis.** 37. The provisions of this Chapter shall apply to every tavazhi possessing separate properties as if it were a tarwad.

CHAPTER VI.

PARTITION.

- Right of tavazhi to claim partition.** 38. (1) Any tavazhi represented by the majority of its major members may claim to take its share of all the properties of the tarwad over which it has power of disposal and separate from the tarwad :
- Provided that no tavazhi shall claim to be divided from the tarwad during the lifetime of an ancestress common to such tavazhi and to any other tavazhi or tavazhis of the tarwad, except with the consent of such ancestress, if she is a member of the tarwad.
- (2) The share obtained by the tavazhi shall be taken by it with the incidents of tarwad property.
- Explanation.*—For the purposes of this Chapter, a male member of a tarwad or a female member thereof without any living child or descendant in the female line, shall be deemed to be a tavazhi if he or she has no living female ascendant who is a member of the tarwad.
- Partition on change of religion.** 39. Notwithstanding anything contained in section 38, any member of a tarwad who has changed his or her religion may claim or be compelled by any other member of the tarwad, to take his or her share of all the tarwad properties over which it has power of disposal and separate from the tarwad.
- Ascertainment of shares at partition.** 40. (1) In the case referred to in section 38, the tavazhi shall be entitled to such share of the tarwad properties as would fall to the tavazhi if a division *per capita* were made among all the members of the tarwad then living.
- (2) In the case referred to in section 39, the member who claims or is compelled to divide from the tarwad, shall be entitled to such share of the tarwad properties as would fall to such member if a division *per capita* were made among all the members of the tarwad then living.
- Application of chapter to tavazhis.** 41. The provisions of this Chapter shall apply to every tavazhi possessing separate properties as if it were a tarwad.

(Chapter VII—Impartible Tarwads.)

CHAPTER VII.

IMPARTIBLE TARWADS.

42. (1) Every tarwad included in the Schedule shall be an impartible tarwad and the provisions of Chapter VI shall not apply to such tarwad unless and until it is registered as a partible tarwad. Certain tarwads to be impartible unless registered as partible.

(2) Not less than two-thirds of the major members of a tarwad referred to in sub-section (1) may at any time present a petition to the Collector for the registration of the tarwad as partible.

(3) Such petition shall be in such form and contain such particulars as may be prescribed.

(4) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the registration of the tarwad as partible, he shall register the tarwad as partible.

(5) On such registration, the provisions of Chapter VI shall apply to such tarwad.

43. (1) Not less than two-thirds of the major members of a tarwad may, at any time, present a petition to the Collector for the registration of the tarwad as impartible. Registration of tarwads as impartible.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the registration of the tarwad as impartible, he shall register the tarwad as impartible.

(4) On such registration, the provisions of Chapter VI shall not apply to such tarwad unless and until the registration is cancelled under section 44.

44. (1) Not less than two-thirds of the major members of a tarwad registered as impartible under section 43 may at any time present a petition to the Collector for the cancellation of such registration. Cancellation of such registration.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the tarwad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the tarwad have signed the petition with their free consent and desire the cancellation of the registration, he shall cancel such registration.

*(Chapter VII—Impartible Tarwads. Chapter VIII—
Miscellaneous.)*

Powers of
Collector
to take
evidence on
oath, etc.

45. The Collector shall, for the purposes of this Chapter, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect V of 1908. of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
- (b) compelling the production of documents ; and
- (c) issuing commissions for the examination of witnesses,

and any proceeding before the Collector under this Chapter shall be deemed to be a judicial proceeding.

Collector's
order to be
final.

46. The order of the Collector registering a tarwad as partible under section 42 or registering a tarwad as impartible under section 43 or cancelling such registration under section 44, shall be final and shall not be questioned in any civil court.

Maintenance
of register
by Collector.

47. The Collector shall keep a register of all petitions presented to him under sections 42, 43 and 44 and of all orders passed by him on such petitions and shall, at all reasonable times, allow search to be made in such register and shall, on payment of the prescribed fee, give a copy, certified under his hand, of any entry therein.

CHAPTER VIII.

MISCELLANEOUS.

Construction
of bequests,
gifts, etc.,
to wife or
wife and
children.

48. Where a person bequeaths or makes a gift of any property to, or purchases any property in the name of, his wife alone or his wife and one or more of his children by such wife together, such property shall, unless a contrary intention appears from the will or deed of gift or purchase or from the conduct of the parties, be taken as tavazhi property by the wife, her sons and daughters by such person and the lineal descendants of such daughters in the female line :

Provided that in the event of partition of the property taking place under Chapter VI, the property shall be divided on the stirpital principle, the wife being entitled to a share equal to that of a son or a daughter.

Rules.

49. (1) The ¹ [Provincial Government] may make rules consistent with this Act to carry into effect the purposes thereof.

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

- (a) all matters expressly required or allowed by this Act to be prescribed ; and

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter VIII—Miscellaneous. Schedule—List of Impartible Tarwads).

(b) the procedure to be followed in respect of applications under Chapter VII.

(3) All rules made under this section shall be published in the ¹ [Official Gazette] and on such publication shall have effect as if enacted in this Act.

Savings.

50. Nothing contained in this Act shall—

- (a) be deemed to confer any rights on the parties to or the issue of any marriage which is dissolved before this Act comes into force, or
- (b) be deemed to affect any rule of Marumakkattayam law, custom or usage, except to the extent expressly laid down in this Act.

SCHEDULE.

[See the second proviso to section 14 and sub-section (1) of section 42.]

List of Impartible Tarwads.

1. The Zamorin's family consisting of—

- (a) Puthia Kovilakom situate in Thiruvanoor, Calicut taluk,
- (b) Patinhare Kovilakom situate in Mankav, Calicut taluk, and
- (c) Kizhake Kovilakom situate at Kottakal, Ernad taluk.

2. The Chirakal Kovilakom near Cannanore.

3. The Nilambur Kovilakom in Nilambur amsam, Ernad taluk.

4. The Kizhake Kovilakom of the Kottayam Raja's family, Kottayam taluk.

5. The Thekke Kovilakom of the Kottayam Raja's family, Kottayam taluk.

6. The Patinhare Kovilakom of Kottayam Raja's family in Kottayam taluk.

7. Ayancheri Kovilakom in Purameri amsam, Kurumbranad taluk.

8. The Edavalath Kovilakom in Purameri amsam, Kurumbranad taluk.

9. The Ayiranzhi Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

10. The Kadannamana Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

11. The Mankada Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

¹ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(*Schedule—List of Impartible Tarwads.*)

12. The Aripura Kovilakom of the Walluvanad Raja's family in the Walluvanad taluk.

13. The tarwad from which the Kuthiravattath Nair attains stanom, situate in Pulapatta amsam, Walluvanad taluk.

14. The tarwad from which the Punnathur Raja attains stanom, situate in Kottapadi amsam, Ponnani taluk.

15. The Venganad Kovilakom of the Venganad or of Kollengode Valia Nambidi.

16. The Mayapadi Raja's family of Kasaragod taluk.

17. The Neleswar Raja's family of Kasaragod taluk.

MADRAS ACT No. II OF 1934.¹

[THE MADRAS LOCAL BOARDS AND ELEMENTARY EDUCATION
(AMENDMENT) ACT, 1934.]

[27th March 1934]

An Act to amend the Madras Local Boards Act, 1920,
and the Madras Elementary Education Act, 1920,
for certain purposes.

WHEREAS it is expedient to amend the Madras Local Boards Act, 1920, and the Madras Elementary Education Act, 1920, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Madras Act
XIV of 1920.
Madras Act
VIII of 1920.

Short title
and com-
mencement.

1. (1) This Act may be called the Madras Local Boards and Elementary Education (Amendment) Act, 1934.

(2) It shall come into force on such date as the ²[Provincial Government] may, by notification in the ³[Official Gazette], appoint.

⁴ [2-60 * * * * *]

Abolition of
taluk
boards.

61. (1) All taluk boards constituted under the Madras Local Boards Act, 1920, shall, on the commencement of this Act, be deemed to have been abolished.

Madras Act
XIV of 1920.

Construction
of references
to taluk
boards and
their
presidents
in enact-
ments, etc.

(2) Any reference to a taluk board or its president contained in any enactment in force in the Presidency of Madras or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the said

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette* Extraordinary, dated 18th January 1934, page 20.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

⁴ Sections 2 to 60 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

* Came into force on the 18th April 1934.

(The Schedule—Transitional Provisions.)

Presidency shall, after the commencement of this Act, be construed as a reference to the district board or its president, as the case may be.

Madras Act XIV of 1920.
Madras Act VIII of 1920.

62. In giving effect to the provisions of the Madras Local Boards Act, 1920, and the Madras Elementary Education Act, 1920, as amended by this Act, the said provisions shall be read subject to the rules contained in the Schedule.

Madras Acts XIV and VIII of 1920, as amended by this Act, to be read subject to the rules in the Schedule.

THE SCHEDULE.

Transitional Provisions.

1. (1) Save as provided in rule 5, all property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in or held in trust by, or for, any taluk board constituted under the Madras Local Boards Act, 1920, as well as all liabilities legally subsisting against such board shall, on and from the date of the commencement of this Act and subject to such directions as the [Provincial Government] may by general or special order give in this behalf pass to the district board concerned.

Explanation.—All arrears of taxes or other payments by way of composition for a tax or due for expenses or compensation or otherwise due to a taluk board at the commencement of this Act may be recovered by the district board concerned.

(2) All proceedings taken by or against any taluk board and pending at the commencement of this Act may, thereafter, be continued by or against the district board concerned.

(3) Any remedy by way of application, suit or appeal available to or against a taluk board at the commencement of this Act shall, after such commencement, be available to or against the district board concerned.

2. Any action taken by a taluk board before the commencement of this Act shall, subject to such directions as the [Provincial Government] may by general or special order give in this behalf, be deemed to have been taken by the district board concerned unless and until superseded by action taken by such district board.

3. On the commencement of this Act, all moneys standing to the credit of the Village Development Fund maintained by a district board shall form part of the general funds of the district board, and all rights and liabilities attaching to such fund shall pass to the district board.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(The Schedule—Transitional Provisions.)

4. The land-cess levied under section 78 of the Madras Local Boards Act, 1920, for the fasli year in which this Act is brought into force shall be distributed among district boards and panchayats in such manner as the ¹ [Provincial Government] may by general or special order direct.

5. (1) All taluk roads, taluk choultries, taluk dispensaries, taluk markets, taluk fairs and taluk festivals shall, on the commencement of this Act, be deemed to have been classified under rule 3 of Schedule V to the Madras Local Boards Act, 1920, as amended by this Act, as district roads, district choultries, district dispensaries, district markets, district fairs and district festivals, respectively.

(2) All taluk libraries shall, on the commencement of this Act, vest in the panchayat concerned or where there is no panchayat, in the district board concerned.

(3) All taluk hospitals shall, on the commencement of this Act, vest in the district board concerned.

6. All presidents of taluk boards in a district holding office on the first day of February 1934 who are not members of the district board on that date shall be members of the district board concerned over and above the sanctioned strength thereof. They shall hold office as such members, subject to the provisions of sub-section (2) of section 54, and sections 56, 57 and 59 of the Madras Local Boards Act, 1920, as amended by this Act, until the other members of the district board vacate office by efflux of time.

7. ² [Where a notification is issued under section 3-A of the Madras Local Boards Act, 1920, splitting up a district into two or more districts with effect from a date earlier than that on which the members of the existing district board would vacate office by efflux of time, the following provisions shall, unless the ¹ [Provincial Government] otherwise direct, apply until the date on which the said members would vacate office as aforesaid :—]

Madras Act
XIV of 1920.

(a) Section 7 of the Madras Local Boards Act, 1920, in so far as it applies to the minimum number of members of a district board shall not apply to the new district boards.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² The opening paragraph within square brackets was substituted for the original paragraph by section 5 (i) of the Madras Local Boards (Amendment) Act, 1934 (Madras Act III of 1935).

(The Schedule—Transitional Provisions.)

- (aa) The circles of the new districts shall, unless and until the ¹ [Provincial Government], direct otherwise by a notification under section 47 of the Madras Local Boards Act, 1920, be the circles of the old district falling within the respective areas of the new districts.
- (b) The members of each of the new district boards shall, notwithstanding anything contained in clause (g) of sub-section (1) of section 56 of the Madras Local Boards Act, 1920, be the members elected to the old district board by the circles falling within the new district, together with the presidents of taluk boards ² [if any] who became members of the old district board under rule 6 and who were originally elected to the taluk boards by taluk board circles falling within the new district.
- (c) If any vacancy in the office of a member of the district board existed at the time of the notification under the said section 3-A, such vacancy shall be filled by a casual election by the circle concerned.
- ³ [(cc) * * * * *]
- (d) The members of the new district boards shall, subject to the provisions of sub-section (2) of section 54, section 56, except clause (g) of sub-section (1) and sections 57 and 59 of the Madras Local Boards Act, 1920, as amended by this Act, hold office until the date on which they would have vacated their offices on the old district board by efflux of time, if the notification under the said section 3-A had not been issued.
- (e) If any vacancy in the office of a member of the new district board occurs otherwise than by efflux of time, such vacancy shall be filled by a casual election by the circle concerned. Any person elected at such election shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.
- (f) Nothing contained in clauses (c) and (e) shall apply to any vacancy in the office of a member of the district board who became such member by virtue of rule 6 or of that rule read with clause (b) of this rule.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² The words within square brackets were inserted by section 5 (ii) of the Madras Local Boards (Amendment) Act, 1934 (Madras Act III of 1935).

³ Clause (cc) was omitted by section 2 of the Madras Local Boards (Amendment) Act, 1937 (Madras Act XI of 1937).

(The Schedule—Transitional Provisions.)

- (g) (i) The president of the district board holding office¹ [on the date on which the notification under the said section 3-A takes effect] shall² [with effect from such date,] be the president of the district board of which he becomes a member under clause (b).
- (ii) Where by the operation of sub-clause (i) no person becomes the president of a district board, the members of the board shall, as soon as may be³ [after the date on which the notification under the said section 3-A takes effect], meet for the election of a president on such date as may be fixed in that behalf by the Collector of the district.
- (iii) As soon as may be³ [after the date on which the notification under the said section 3-A takes effect], the members of the district board shall meet for the election of the vice-president on such date as may be fixed in that behalf by the president of the board.
- (h) The⁴ [Provincial Government] shall cause arrangements for a general election to the new district boards to be made in accordance with the notifications issued by them with respect thereto under the Madras Local Boards Act, 1920, as amended by this Act, so that the newly elected members may come into office on the date referred to in clause (d).

8. When after the commencement of this Act, candidates are required for appointment to any post under a district board or panchayat, selection for appointment thereto shall, subject to such directions as may be issued by the⁴ [Provincial Government], be restricted to persons who have been employed by taluk boards and are thrown out of such employment in consequence of the abolition of taluk boards by this Act, so long as such persons desirous of such selection are available and continue to be qualified and suitable for the post.

¹ The words, figure and letter within square brackets were substituted for the words, figure and letter "on the date of issue of the notification under the said section 3-A" by section 5 (iii) (a) of the Madras Local Boards (Amendment) Act, 1934 (Madras Act III of 1935).

² The words within square brackets were substituted for the words "with effect from the date of such notification" by section 5 (iii) (b), *ibid.*

³ The words, figure and letter within square brackets were substituted for the words, figure and letter "after the issue of the notification under the said section 3-A" by section 5, *ibid.*

⁴ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(*The Schedule—Transitional Provisions.*)

1934: Mad. Act V] *Periyar Irrigation Tanks*

The ¹ [Provincial Government] may issue such general or special directions as they may think necessary for the purpose of regulating appointments under this rule and otherwise giving due effect to the provisions thereof and no appointment to any post under a district board or panchayat made in contravention of any such direction shall be deemed to have been validly made.

² [9-10 * * * * *]

11. The elementary education funds constituted for taluk boards in any district board area shall, on the commencement of this Act, form part of the elementary education fund constituted for the district board under the Madras Elementary Education Act, 1920, as amended by this Act.

12. Any tax levied by a taluk board under the Madras Elementary Education Act, 1920, before the commencement of this Act shall be deemed to have been levied by the district board under that Act as amended by this Act.

13. If any difficulty arises in giving effect to the provisions of these rules or of the Madras Local Boards Act, 1920, or of the Madras Elementary Education Act, 1920, as amended by this Act, the ¹ [Provincial Government] as occasion may require may by order do anything which appears to them to be necessary for the purpose of removing the difficulty.

MADRAS ACT No. V OF 1934.³

[THE PERIYAR IRRIGATION TANKS (PRESERVATION) ACT,
1934.

[8th May 1934.]

An Act to provide for the preservation in efficient condition of tanks belonging to landholders which are used as part of the Periyar system of irrigation in the Presidency of Madras.

WHEREAS it is expedient to provide for the preservation in efficient condition of tanks belonging to landholders which are used by the Government as part of the Periyar system of irrigation in the Presidency of Madras ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Periyar Irrigation Tanks Short title.
(Preservation) Act, 1934.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Rules 9 and 10 were omitted by section 11 of the Madras Elementary Education (Amendment) Act, 1939 (Madras Act II of 1939).

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 17th October 1933—Part IV, page 210.

- Extent.** 2. It extends to the whole of the Madura district.
- Definitions.** 3. In this Act, unless there is something repugnant in the subject or context,
- (a) 'Collector' means the Collector of the Madura district ;
 - (b) 'estate' and 'landholder' have the same meaning as in the Madras Estates Land Act, 1908 ; and
 - (c) 'tank' means any tank situated wholly or partly in an estate and used by the Government as part of the Periyar system of irrigation.
- Decision of disputes.** 4. If any question arises as to whether any area is or forms part of a tank, it shall be decided by the Collector whose decision shall be final.
- Preliminary order for repair of tank and service of such order on landholder.** 5. Whenever it appears to the Collector that any tank is in a state of disrepair, he may pass a preliminary order specifying the measures which in his opinion are necessary for its repair and restoration to efficiency and cause plans and estimates of the cost of such measures to be prepared. The Collector shall send copies of such preliminary order, plans and estimates to the landholder of the estate in which the tank is situated, or if the tank is situated in more than one estate, to each landholder concerned, together with a notice in writing requiring him to appear before the Collector on a date to be specified in the notice, not being less than sixty days after the date of the notice, and show cause why the said order should not be confirmed.
- The Collector shall cause a vernacular translation of such order and notice, together with a description in the vernacular of such measures and of the estimated cost of carrying them out, to be affixed in some conspicuous place or places in the village or villages in which the tank or its ayacut is situated and in such other villages, if any, as he may think fit and shall cause intimation to be given of such affixture by beat of drum in the village or in each of the villages in which such affixture has been made.
- Objections before Collector.** 6. On or before the date specified in the notice—
- (i) the landholder or any of the landholders concerned may appear before the Collector, and raise any of the following objections, namely :—
 - (a) that he is not the landholder of any estate in which the tank is wholly or partly situated ;
 - (b) that the tank does not require repair ;
 - (c) that measures other than those proposed would be sufficient for the repair of the tank and its restoration to efficiency ; and

- (d) that by law, local custom or contract any of the measures proposed should be carried out wholly or in part by or at the cost of some other person or persons ; and
- (ii) the holder of any land irrigated by the Periyar system or any other person concerned may appear before the Collector and make such representations as he may think fit with regard to the nature of the measures proposed.

7. On the date specified in the notice or on any subsequent date to which he may adjourn the inquiry, the Collector shall hold such inquiry as he thinks fit, and after such inquiry, if any, shall pass a final order confirming, cancelling or modifying the preliminary order, and in the last case, shall cause to be made such modifications in the plans and estimates as he may find necessary :

Inquiry by Collector and final order.

Provided that before modifying the preliminary order to the disadvantage of any party who has not appeared at the inquiry the Collector shall give a reasonable opportunity to such party to appear and show cause why the order should not be modified as proposed :

Provided further that in cases falling under sub-clause (d) of clause (i) of section 6, the Collector shall specify in the final order the extent to which the landholder's liability devolves on the person or persons concerned under the law, local custom or contract and the proportions, if any, in which each of such persons, if more than one, shall bear such liability.

8. (1) If the Collector confirms or modifies the preliminary order, he shall report the matter to the ¹ [Provincial Government] who may cause to be carried out the measures specified in the order as confirmed or modified by him.

Report by collector to Provincial Government and order by them.

(2) The total cost of carrying out such measures (including the charges on account of establishment and tools^{*} and plant at such percentages on the actual cost of the work done as the ¹ [Provincial Government] may from time to time prescribe) shall be divided between the ¹ [Provincial Government] and the landholder or landholders and the other persons concerned, if any, in accordance with the following provisions :—

- (a) There shall first be determined the total average area on which, during the three faslis immediately preceding the fasli in which the preliminary order

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

was passed, the ¹ [Provincial Government] have levied water-cess for the use of water issuing from the tank otherwise than through its surplus works, whether at the rate prescribed for the irrigation of dry land with Periyar water or at the rate prescribed for the irrigation of wet land in whole inam and zamindari villages with such water.

- (b) Each landholder concerned shall bear such proportion of the said total cost as one half of the average area of the lands in his estate on which during the said three faslis the ¹ [Provincial Government] have levied water-cess for the use of water so issuing at the rate prescribed for the irrigation with Periyar water of wet lands in whole inam and zamindari villages, bears to the total average area as determined under clause (a) :

Provided that in cases falling under sub-clause (d) of clause (i) of section 6, the liability of the landholder concerned shall, to the extent specified in the Collector's final order under section 7, be borne by the persons and in the proportions specified in such order.

- (c) The ¹ [Provincial Government] shall bear the balance of the said total cost.

Illustrations.

(1) A tank is wholly situated in the estate of a landholder. There is no law, local custom or contract excluding the liability of the landholder. The average area on which water-cess was levied during the three faslis immediately preceding that in which the preliminary order is passed consists of 50 acres on which water-cess was levied at the rate prescribed for the irrigation of dry lands and 30 acres on which water-cess was levied at the rate prescribed for the irrigation of wet lands in whole inam and zamindari villages. The landholder should bear $\frac{1}{30} \text{ of } \frac{30}{50}$, i.e., $\frac{3}{16}$ of the total cost and the Government should bear the remainder, namely, $\frac{13}{16}$.

(2) The facts are the same as in Illustration (1), except that a contract is proved by which the ryots holding the wet lands are bound to bear a share of the cost in proportion to their holding. Twenty acres of the wet lands are held by

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

the ryots and the remaining ten by the landholder. The Government have to bear 13/16 of the total cost as in Illustration (1), the ryots 2/16 and the landholder 1/16.

(3) A tank is situated partly in the estate of landholder *A* and partly in that of landholder *B*. There is no law, local custom or contract excluding the liability of either landholder. The average area on which water-cess was levied during the three faslis immediately preceding consists of 50 acres on which the cess was levied at the rate prescribed for dry lands, 20 acres in the estate of landholder *A* on which the cess was levied at the rate prescribed for wet lands in whole inam and zamindari villages, and 10 acres in the estate of landholder *B* on which the cess was levied at the rate prescribed for such wet lands. Landholder *A* will bear $\frac{\frac{1}{2} \text{ of } 20}{50 + 20 + 10}$ or 2/16 of the total cost, landholder *B* will bear $\frac{\frac{1}{2} \text{ of } 10}{50 + 20 + 10}$ or 1/16 of the total cost and the Government will bear the remainder, namely, 13/16.

(4) A tank is situated in the estates of several landholders. During the three faslis immediately preceding, water-cess has been levied on the whole ayacut at the rate prescribed for the irrigation of wet lands in whole inam and zamindari villages. There is no law, local custom or contract excluding the liability of any landholder. One-half of the total cost will be borne by the Government and the other half by the several landholders in proportion to the areas lying within their respective estates on which such water-cess has been levied.

9. After such measures as may have been ordered by the Service of notice on landholder or other person to pay amount of cost due from him. Provincial Government] under section 8 have been carried out, the Collector shall cause to be served upon every landholder or other person concerned, a memorandum showing the total cost of carrying out the same and the portion of such cost for which he is liable under section 8, together with an order directing him to pay the said portion either in a lump sum within a specified time or in specified instalments.

10. Any amount payable by a landholder or other person under an order under section 9 shall be recoverable as Recovery of amount of cost. an arrear of land revenue.

11. (1) Any landholder aggrieved by an order under section 9 served on him may, within six months from the date Right of suit of landholder, etc., in certain cases.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

on which such order was served, institute a suit in a Civil Court to have such order set aside or modified on any of the following grounds, namely :—

- (a) that he is not the landholder of any estate in which the tank is wholly or partly situated ; or
- (b) that by law, local custom or contract any of the measures should have been carried out by, or at the cost of, some other person ; or
- (c) that the portion of the cost for which he has been made liable has been wrongly calculated :

Provided that a landholder who has been served with a preliminary order under section 5 shall not be entitled to institute a suit on the ground specified in clause (a) or clause (b), unless he has raised such ground in the proceedings before the Collector under section 6 or section 7.

(2) Any person other than a landholder aggrieved by an order under section 9 served on him may, within six months from the date on which such order was served, institute a suit in a Civil Court to have such order set aside or modified on any of the following grounds, namely :—

- (a) that he is not bound to carry out any of the measures by law, local custom or contract ; or
- (b) that the portion of the cost for which he has been made liable has been wrongly calculated :

Provided that no such person shall be entitled to institute a suit on the ground specified in clause (a), unless he has raised such ground in the proceedings referred to in section 6 or section 7, having had a reasonable opportunity to do so.

Procedure
in case of
emergency.

12. Whenever it appears to the Collector that any tank is in such a state of disrepair as to be in imminent danger of breaching, he may by summary order cause to be carried out the measures of repair which in his opinion are necessary to prevent the tank from breaching and shall without delay inform every landholder and other person concerned of the action which he is taking. The provisions of this Act shall thereupon apply as though such repairs had been ordered to be executed by the ¹[Provincial Government] under section 8.

Service of
notice or
other docu-
ment.

13. Every notice, order or other document required by this Act to be served on, or sent to, any person, shall, if practicable, be served personally on such person or, if he cannot be found, the notice, order or document may be left at his usual or last known place of abode with an adult

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(*Miscellaneous Provisions.*)

member of his family or an adult servant or agent, or may be sent by registered post, or may be affixed to some conspicuous part of his usual or last known place of abode and shall thereupon be deemed to have been duly served or sent.

14. The Collector or any officer appointed by him in that behalf may, for the purposes of this Act, at any time, enter upon any land and inspect or cause to be inspected any tank situated therein. Powers of entry and inspection.

MADRAS ACT No. VIII OF 1934.¹

[THE MADRAS ESTATES LAND (AMENDMENT) ACT, 1934.]

[30th June 1934.]

An Act further to amend the Madras Estates Land Act, 1908, for certain purposes.

Madras
Act I of
1908.

WHEREAS it is expedient further to amend the Madras Estates Land Act, 1908, for the purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Madras Estates Land Short title.
(Amendment) Act, 1934.

² [2—126. * * * * *]

MISCELLANEOUS PROVISIONS.

127. (1) Subject to the provisions of sub-section (2), nothing in this Act or in any repeal or amendment effected thereby shall affect any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act under a decree or order of a competent court. Saving of rights and liabilities under decrees or orders of Court.

(2) No tenant in possession on the 1st day of November 1933, of any land in an inam village, not being an estate within the meaning of sub-clause (d) of clause (2) of section 3 of the said Act as amended by this Act, or admitted by the inamdar to possession of any such land subsequent to the Tenants of certain inamdars not to be ejected until date of commencement of Madras Act XVIII

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 28th July 1931—Part IV, page 179.

² Sections 2 to 126 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

(Miscellaneous Provisions.)

and all proceedings in ejection or in which the inamdar's right to the kudivaram is in issue to be stayed until that date.

said date, shall be liable to be ejected until ¹ [the date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936] and all proceedings in ejection of any such tenant and all proceedings involving a decision whether or not the inamdar has the kudivaram right in such land, shall be stayed until ¹ [the date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936] :

Provided that nothing contained in this sub-section shall apply to any land the kudivaram interest in which has been declared or recognized before the 1st day of November 1933 to vest in the inamdar by a decree or order of a competent court which has become final.

² [* * * * *]

¹ These words, brackets and figures were substituted for the words and figures " the 1st day of November 1936 " by section 12 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

² The Schedule was repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

THE MADRAS CO-OPERATIVE LAND MORTGAGE
BANKS ACT, 1934.

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(Chapter I.—Preliminary.)

MADRAS ACT No. X OF 1934.¹

[THE MADRAS CO-OPERATIVE LAND MORTGAGE BANKS
ACT, 1934.]

[31st July 1934.]

An Act to facilitate the working of Co-operative Land
Mortgage Banks in the Presidency of Madras.

Madras
Act VI of
1932.

WHEREAS it is expedient to supplement the provisions of the Madras Co-operative Societies Act, 1932, in order to facilitate the working of co-operative land mortgage banks in the Presidency of Madras with a view to provide for the grant of long-term loans to owners of land or other immovable property, to enable them to discharge their debts, to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self-help among them ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. This Act may be called the Madras Co-operative Land Mortgage Banks Act, 1934. Short title.

2. It extends to the whole of the Presidency of Madras. Extent.

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

(a) ' Board ' means the Board of Directors of the Central Mortgage Bank ;

(b) ' Central Mortgage Bank ' means the Madras Co-operative Central Land Mortgage Bank, Limited ;

(c) ' committee ' means, in relation to a mortgage bank, the Board of Directors or Board of Management or the panchayat or the committee of management or the governing body to whom the management of its affairs is entrusted ;

(d) ' mortgage bank ' means a Co-operative Land Mortgage Bank registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, and admitted as a member of the Central Mortgage Bank ;

(e) ' prescribed ' means prescribed by rules made by the ² [Provincial Government] under this Act ;

Madras
Act VI of
1932.

¹ For Statement of Objects and Reasons, see *Port St. George Gazette*, dated 7th February 1933—Part IV, pages 20–22.

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter I—Preliminary. Chapter II—Debentures.)

- (f) 'Registrar' means the person appointed by the¹ [Provincial Government] to be Registrar of Co-operative Societies for the Presidency of Madras under section 3 of the Madras Co-operative Societies Act, 1932; and
- (g) 'Trustee' means the Trustee referred to in section 5.

Madras Act
VI of 1932.

CHAPTER II.

Debentures.

Issue of
debentures
by the
Board.

4. (1) (a) With the previous sanction of the Trustee, the Board may issue debentures of one or more denominations for such periods as it may deem expedient on the security of the mortgages and other assets transferred by the mortgage banks to the Central Mortgage Bank and of the other properties of such Bank.

(b) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing.

(2) The total amount due on the debentures issued by the Board (including those issued before the commencement of this Act) and outstanding at any time shall not exceed the total amount due on the mortgages, the amounts paid thereunder and remaining in the hands of the Board or of the Trustee at such time and the value of all other assets transferred by the mortgage banks to the Central Mortgage Bank and subsisting at that time.

Appoint-
ment of
Trustee
and his
powers and
functions.

5. The Registrar, or where the¹ [Provincial Government] appoint any other person in this behalf such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the Central Mortgage Bank to the holders of debentures issued by the Board. The mortgages and other assets transferred by the mortgage banks to the Central Mortgage Bank shall vest in the Trustee from the date of such transfer. The holders of the debentures shall have a floating charge on all such mortgages and assets, on the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee and on the other properties of the Central Mortgage Bank. The powers and functions of the Trustee shall be governed by the instrument of trust

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter II—Debentures.)

executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

6. (1) The principal of, and interest on, the debentures issued under section 4 to such maximum amount as may be fixed by the ¹[Provincial Government] and subject to such conditions as they may think fit to impose shall, subject to the provisions of sub-section (3), carry the guarantee of the ¹ [Provincial Government].

Guarantee by Provincial Government of principal of, and interest on, debentures issued under section 4.

(2) The ¹ [Provincial Government] may, after consulting ² [both Chambers of the Provincial Legislature], increase the maximum amount of any guarantee given by them.

(3) The ¹ [Provincial Government] may, after consulting the Board and the Trustee—

(a) by notification in the ³ [Official Gazette], and

(b) by notice for not less than fourteen days in such of the principal newspapers in the Presidency of Madras and of the other provinces in British India as the ¹ [Provincial Government] may select in this behalf, discontinue any guarantee given by them or restrict the maximum amount thereof or modify the conditions subject to which it is given, with effect from a specified date, not being earlier than six months from the date of publication of the notification in the ³ [Official Gazette].

In cases where the maximum amount of the guarantee is to be restricted or the conditions subject to which the guarantee is given are to be modified, the notification and notice aforesaid shall set forth with sufficient clearness the scope and effect of the restriction or modification.

Explanation.—The withdrawal, restriction or modification of any guarantee under this sub-section, shall not affect in any way the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

7. The ¹ [Provincial Government] may, in their discretion, guarantee the principal of, and the interest on, any debentures issued before the commencement of this Act by the Board, subject to such conditions as the ¹ [Provincial Government] may think fit to impose.

Guarantee by Provincial Government of principal of, and interest on, debentures issued before commencement of the Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "the Legislative Council" Act. by Schedule II, *ibid.*

³ These words were substituted for the words "Fort St. George Gazette" by paragraph 4 (1), *ibid.*

(Chapter II—Debentures. Chapter III—Distraint and Sale of Produce.)

Power of Board to make regulations.

8. The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter—

- (i) for fixing the period of debentures and the rate of interest payable thereon ;
- (ii) for calling in debentures after giving notice to debenture holders ;
- (iii) for the issue of new debentures in place of debentures damaged or destroyed ;
- (iv) for converting one class of debentures into another bearing a different rate of interest ; and
- (v) generally for carrying out the provisions of this Chapter.

CHAPTER III.

Distraint and Sale of Produce.

Distraint when to be made.

9. (1) If any instalment payable under a mortgage executed in favour of a mortgage bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee may, in addition to any other remedy available to the bank, apply to the Registrar or to any person appointed by the ¹ [Provincial Government] under section 3 of the Madras Co-operative Societies Act, 1932, to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act, 1882, take such action as is necessary to distraint and sell such produce :

Madras Act VI of 1932.

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(2) The distress shall not be excessive ; the value of the property distrained shall be as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

Distraint how to be effected.

10. (1) Before or at the time when a distraint is made under section 9, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(2) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III—*Distrain and Sale of Produce.* Chapter IV—*Power of Sale.*)

his usual place of abode or to his authorized agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

11. (1) If, within fifteen days from the date of service of the demand referred to in section 10, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale. Sale of property distrained.

(2) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one anna in the rupee on account of the costs of the sale.

(3) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(4) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(5) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

12. The ¹ [Provincial Government] may make rules not inconsistent with this Chapter— Power of Provincial Government to make rules

(i) for the manner of effecting distraint ;

(ii) for the custody, preservation and sale of the distrained property ;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property ; and for the postponement of the sale pending such investigation ;

(iv) for the immediate sale of perishable articles ; and

(v) generally for the purpose of carrying out the provisions of this Chapter.

CHAPTER IV.

Power of Sale.

IV of 1882,
XXVIII of
1866.

13. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or in the Trustees and Mortgagees' Powers Act, 1866, where a power of sale without the intervention of the Court is expressly conferred on the mortgage bank by the mortgage deed, the committee of such bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the Court. Power of sale when to be exercised.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV—Power of Sale.)

- (2) No such power shall be exercised unless and until—
- (a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor or mortgagors ;
 - (b) notice in writing requiring payment of such mortgage money or part has been served upon—
 - (i) the mortgagor or each of the mortgagors ;
 - (ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same ;
 - (iii) any surety for the payment of the mortgage debt or any part thereof ; and
 - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property ; and
 - (c) default has been made in payment of such mortgage money or part for three months after such service.

Application for sale and manner of sale.

14. (1) In exercise of the power of sale conferred by section 13, the committee of a mortgage bank or any person duly authorized by such committee, may apply to the sale officer appointed in that behalf under section 22 to sell the mortgaged property or any part thereof and such officer shall, after giving notice in writing to all the persons referred to in section 13 sell such property in the manner prescribed.

(2) The sale shall be by public auction and shall be held in the village where the mortgaged property is situated 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.

Application to set aside sale on deposit and confirmation of sale in default or on dismissal of such application.

15. (1) When a mortgaged property has been sold under this Chapter, the mortgagor or any person having a right or interest therein affected by the sale, may, at any time within thirty days from the date of sale, apply to the committee of the mortgage bank concerned to have the sale set aside on his depositing at the office of such bank—

- (a) for payment to the mortgage bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale ; and
- (b) for payment to the purchaser, a sum equal to five per cent of the purchase money.

(2) If such deposit is made, the committee shall make an order setting aside the sale.

(Chapter IV—Power of Sale.)

(3) Where no application is made under sub-section (1) or where such application is made and disallowed, the committee shall apply to the principal officer of the co-operative department in the district, to make an order confirming the sale and on such officer confirming the sale, it shall become absolute.

16. (1) The proceeds of every sale under this Chapter shall be applied by the sale officer, *first* in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale ; *secondly*, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold ; *thirdly*, in payment of the principal money due on account of the mortgage ; and *lastly*, the residue, if any, shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

Distribution
of the
proceeds
of sale.

(2) (a) Any person dissatisfied with the decision of the sale officer in regard to the distribution of such residue may, within thirty days of the communication to him of such decision, institute a suit in a Court to establish the right he claims.

(b) The sale officer shall not distribute such residue until thirty days have elapsed from the communication of his decision to all the persons concerned or, if a suit has been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the Court therein.

Explanation.—In this sub-section ‘Court’ means the Civil Court which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property sold is situated.

17. Where a sale of mortgaged property has become absolute, the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be the purchaser. Such certificate shall bear date, the day on which the sale became absolute.

Certificate to
purchaser.

18. (1) Where the mortgaged property sold is in the occupancy of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the mortgage bank and a certificate in respect thereof has been granted under section 17, the Court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

Delivery of
property to
purchaser.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 17, the Court shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been transferred to the purchaser.

(3) In regard to the cases dealt with in sub-sections (1) and (2), the provisions of rules 97 to 103 of Order XXI of V of 1908, the first schedule to the Code of Civil Procedure, 1908, shall *mutatis mutandis* and so far as may be, apply.

Explanation.—In this section, “ Court ” shall have the same meaning as in section 16.

Right of mortgage bank or of the Central Mortgage Bank to purchase the mortgaged property at sale.

19. It shall be competent to a mortgage bank or the Central Mortgage Bank to purchase the mortgaged property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

Appointment of receiver and his powers.

20. (1) The Board may, on the application of a mortgage bank and under circumstances in which the power of sale conferred by section 13 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realized by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882.

IV of 1882.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Civil Court.

Title of purchaser not to be impeached on the ground of irregularity, etc.

21. When a sale has been made in professed exercise of a power of sale under section 13 and has been confirmed under sub-section (3) of section 15, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised but

(Chapter IV—Power of Sale. Chapter V—Miscellaneous.)

any person damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the mortgage bank.

22. The Registrar may appoint sale officers for the purpose of conducting sales under this Chapter. Appointment of sale officer.

23. The ¹[Provincial Government] may make rules not inconsistent with this Chapter— Power of Provincial Government to make rules.

- (i) for the due proclamation and conduct of the sale ;
- (ii) for the recovery of the expenses of proclamation and sale ;
- (iii) for the deposit of the purchase money ;
- (iv) for the resale of the property, if the purchase money is not deposited ; and
- (v) generally for carrying out the provisions of this Chapter.

CHAPTER V.
Miscellaneous.

24. Where any property mortgaged to a mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the mortgage bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under section 9 or section 13 for the recovery thereof. Powers of mortgage bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the by-laws of the mortgage bank.

25. (1) The Board or the Trustee may direct the committee of a mortgage bank to take action against a defaulter under section 9, section 13 or section 24 and if the committee neglects or fails to do so, the Board or the Trustee may take such action. Power of Board or of Trustee to direct distraint and sale of produce and the sale of mortgaged property, etc.

(2) (a) Where such action is taken by the Board, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the mortgage bank and to its committee in the said provisions were references to the Central Mortgage Bank and the Board respectively.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter V—Miscellaneous.)

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the mortgage bank or to its committee in the said provisions were references to the Trustee.

Mortgagor's power to lease.

26. Notwithstanding anything contained in the Transfer of Property Act, 1882, the duration of any lease executed by a mortgagor of property mortgaged to a mortgage bank after the execution of the mortgage shall in no case exceed five years. IV of 1882.

Mortgage not to be questioned on insolvency of mortgagor.

27. Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, a mortgage executed in favour of a mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the mortgage bank a preference over the other creditors of the mortgagor. III of 1909.
V of 1920.

Priority of mortgage over claims arising under the Land Improvement Loans Act, 1883.

28. A mortgage executed in favour of a mortgage bank after the commencement of this Act shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883, granted after the execution of the mortgage. XIX of 1883.

Right of mortgage bank to pay prior debts of mortgagor.

29. Where a mortgage is executed in favour of a mortgage bank for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank ¹ [at its registered office] within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice : IV^a of 1882.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the mortgage bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

² [29-A. (1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and persons

Power to summon witnesses and requisition documents.

¹ The words within square brackets were inserted by section 2 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1935 (Madras Act XVII of 1935).

² Section 29-A was inserted by section 2 of the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1939 (Madras Act XXIII of 1939).

(Chapter V—Miscellaneous.)

subordinate to the Registrar who are authorized by him in this behalf by general or special order in writing, and such other persons, being officials engaged in the relief of rural indebtedness or officers of co-operative banks which are registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, as the Provincial Government may, by notification in the *Fort St. George Gazette*, authorize in this behalf, shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :—

Madras Act
VI of 1932.

V of 1908.

- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
- (b) compelling the production of documents ; and
- (c) issuing commissions for the examination of witnesses.

(2) Any of the officers or persons authorized by or under sub-section (1) may require any person present before him to furnish any information or to produce any document then and there in his possession or power.

(3) Any officer or person before whom any document is produced under sub-section (1) or sub-section (2) shall have power to take, or to authorize the taking of, such copies of the document or of any entries therein as such officer or person may consider necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein as the case may be.

(4) (a) Any person who wilfully or without reasonable excuse disobeys any summons, requisition or order issued under sub-section (1) or sub-section (2), shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing disobedience with an additional fine which may extend to five rupees for every day during which such disobedience continues after conviction for the last such disobedience.

(b) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under clause (a).

(c) Every offence under clause (a) shall, for the purposes of the Code of Criminal Procedure, 1898, be deemed to be non-cognizable.

(d) No prosecution shall be instituted under clause (a) without the previous sanction—

(i) of the Registrar in case the summons, requisition or order alleged to have been disobeyed was issued by the Registrar or any person subordinate to him or by any officer of a co-operative bank ; and

V of 1898.

(Chapter V—Miscellaneous.)

(ii) of the Collector of the district in other cases.

Such sanction shall not be given without giving the party concerned an opportunity to be heard.

(5) The Provincial Government shall have power to make rules for giving effect to the provisions of this section.]

Registration of documents executed on behalf of a mortgage bank or of the Central Mortgage Bank,

30. (1) Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for any Director, Secretary or other officer of a mortgage bank or of the Central Mortgage Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act. XVI of 1908

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or officer for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Power of mortgage bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Mortgage Bank,

31. Notwithstanding the transfer of a mortgage by a mortgage bank to the Central Mortgage Bank—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the mortgage bank and such payment shall be as valid as if the mortgage had not been so transferred ; and

(b) the mortgage bank shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgage bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by managers of joint Hindu families.

32. (1) Where a mortgage executed in favour of a mortgage bank either before or after the passing of this Act is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the following shall not be regarded as purposes not binding on a member of the joint Hindu family, namely :—

(a) the improvement of agricultural land or of the methods of cultivation ; and

(b) the purchase of land.

(Chapter V—Miscellaneous.)

33. The provisions of Chapters III and IV shall apply also to the loans advanced by mortgage banks from funds which have not been borrowed from the Central Mortgage Bank.

Chapters III and IV to apply to loans advanced by mortgage banks from funds not borrowed from the Central Mortgage Bank.

34. Whenever under the provisions of this Act notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

Service of notices under the Act.

35. The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Act.

Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to such notices.

36. At any sale of movable or immovable property held under the provisions of this Act in order to recover any money due to a mortgage bank, no Director, Secretary or other officer of such bank or of the Central Mortgage Bank (except on behalf of the bank of which he is a Director or Secretary or an officer) and no sale officer or other person having any duty to perform in connexion with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

Officers of mortgage banks and of the Central Mortgage Bank and sale officers not to bid at sales.

37. The Board may, if it thinks fit, delegate all or any of its powers under sections 13, 20 and 25 to an executive committee constituted by it and consisting of two or more of its members.

Delegation of certain powers by Board.

38. Notwithstanding anything contained in the Madras Co-operative Societies Act, 1932, or the rules made thereunder, the Board shall have a general power of supervision over the mortgage banks and may make regulations not inconsistent with this Act or the rules made thereunder—

Power of Board to make regulations.

- (a) for the inspection of the account books and proceedings of mortgage banks ;
- (b) for the submission of returns and reports by mortgage banks in respect of their transactions ;

(Chapter V—Miscellaneous.)

- (c) for the periodical settlement of accounts between mortgage banks and the Central Mortgage Bank and for the payment of the amounts recovered by mortgage banks on mortgages transferred to the Central Mortgage Bank ;
- (d) prescribing the form in which applications to mortgage banks for loans should be made and for the valuation of the properties offered as security for such loans ;
- (e) for the investment of moneys realized from the mortgagors ; and
- (f) generally for the purpose of safeguarding the interests of the parties concerned and for carrying out the purposes of this Act.

THE MADRAS MATERNITY BENEFIT ACT, 1934.

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MADRAS ACT No. VI OF 1935,¹

[THE MADRAS MATERNITY BENEFIT ACT, 1934.]

, [19th March 1935.]

An Act to prevent the employment of women in factories for some time before and some time after confinement and to provide for payment of maternity benefit to them.

WHEREAS it is expedient to prevent the employment of women in factories for some time before and some time after confinement and to provide for the payment of maternity benefit to them ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

- Short title. 1. This Act may be called the Madras Maternity Benefit Act, 1934.
- Commence-
ment and
extent. 2. (1) It shall come into force on the first day of April 1935.
(2) It extends to the whole of the Presidency of Madras.
- Definitions. 3. In this Act, unless there is anything repugnant in the subject or context,—
(a) ‘employer’ includes ‘an occupier of a factory’ as defined in the Factories Act, 1934, and the manager of a factory ; XXV of 1934.
(b) the expressions ‘factory,’ ‘Inspector of Factories,’ ‘seasonal factory’ and ‘worker’ shall have the same meanings as are respectively assigned to them by the Factories Act, 1934 ; and XXV of 1934.
(c) ‘maternity benefit’ means the amount of money payable under the provisions of this Act to a woman worker in a factory.
- Prohibition of employ-
ment of
women in
factories
immedi-
ately after
confine-
ment. 4. After this Act comes into operation, no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her confinement.
- Right to
maternity
benefit of
women
workers in
non-seasonal
factories. 5. (1) Subject to the provisions of this Act, every woman worker in a factory not being a seasonal factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day for the actual days of her absence during

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated 15th August 1933, page 175 ; for Report of the Select Committee, see *ibid.*, dated 18th September 1934, pages 365-373 ; for proceedings in Council, see Proceedings of the Madras Legislative Council, Volume LXVII, page 120, Volume LXIX, pages 148-151 and Volume LXXIII, pages 290-299.

the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2) ;

¹ [Provided that a woman shall not be entitled to maternity benefit unless she has been employed in any factory or factories of the employer from whom she claims maternity benefit, for not less than two hundred and forty days within a period of one year immediately preceding the date on which she gives notice under sub-section (1) of section 6.]

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be seven weeks, that is to say, three weeks up to and including the day of her confinement and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

6. (1) Any woman worker in a factory entitled to maternity benefit under the provisions of this Act may give notice in writing to her employer stating that her maternity benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman worker has not been confined, such notice shall state that she expects to be confined within one month from the date of the notice ; if she has been confined, such notice shall be given within one week of her confinement.

Notice of claim of maternity benefit and payment thereof.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory until the expiry of four weeks after the day of her confinement.

(3) The amount of maternity benefit for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof as the ² [Provincial Government] may by rule prescribe that the woman has been confined. The amount due for the subsequent period shall be paid punctually each fortnight in arrear.

7. If a woman worker entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due to the nominee mentioned in the notice given under sub-section (1) of section 6 and if there is no such nominee to her legal representative.

Payment of maternity benefit in case of claimant's death.

¹ This proviso was substituted for the original proviso by section 2 of the Madras Maternity Benefit (Amendment) Act, 1939 (Madras Act XVI of 1939).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Prohibition of notice of dismissal to woman worker in certain cases.

8. (1) When a woman worker absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman worker within a period of ¹ [five months before her confinement] shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would on or before the date of her confinement have become, entitled under this Act.

(b) If any question arises as to whether any notice of dismissal given under clause (a) was or was not given for sufficient cause, it shall be referred to the Inspector of Factories whose decision shall be final.

(c) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of Act by employer.

10. If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to two hundred and fifty rupees.

Jurisdiction of Courts.

11. (1) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector of Factories.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Period of limitation for prosecutions under Act.

12. No Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid, the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector of Factories under sub-section (1) of section 11 shall be excluded.

Rules.

13. (1) The ² [Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

¹ These words were substituted for the words "three months before her confinement" by section 3 of the Madras Maternity Benefit (Amendment) Act, 1939 (Madras Act XVI of 1939).

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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

- (a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll ;
- (b) the inspection of factories for the purposes of this Act by Inspectors of Factories ;
- (c) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act ; and
- (d) the method of payment of maternity benefit in so far as provision has not been made therefor in this Act.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

14. A copy of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous place by the employer in every factory in which women are employed.

Copy of Act
and rules
to be
exhibited in
factories
employing
women.

THE MADRAS DEBTORS' PROTECTION ACT, 1934.

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MADRAS ACT No. VII OF 1935. ¹

[THE MADRAS DEBTORS' PROTECTION ACT, 1934.]

[26th March 1935.]

An Act for the protection of certain classes of debtors in the Presidency of Madras.

WHEREAS it is expedient to make provision for the protection of certain classes of debtors in the Presidency of Madras, and for that purpose to regulate the keeping of accounts by certain classes of creditors ;

AND WHEREAS the previous sanction of the Governor General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Debtors' Protection Act, 1934. Short title, extent and commencement.
- (2) It extends to the whole of the Presidency of Madras.
- (3) It shall come into force on such *date as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], appoint.

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

- (1) " bank " means a company carrying on the business of banking and—
 - (a) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, or in British India, or in any State in India, or
 - (b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature ;
- (2) " company " means a company—
 - (a) registered under any of the enactments relating to companies for the time being in force in the

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated 30th August 1932, pages 127-128 ; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume LXII, dated 3rd August 1932, pages 209-210 ; for Report of the Select Committee, see *Fort St. George Gazette*, Part IV, dated 16th January 1934, pages 22-27 ; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume LXXII, dated 1st August 1934, pages 45-93 and dated 3rd August 1934, pages 235-263 and Volume LXXIII, dated 24th October 1934, pages 276-289.

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

* Came into force on the 15th January 1936.

United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, or in British India, or in any State in India, or

(b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature,

and includes a life assurance company to which the Indian Life Assurance Companies Act, 1912, VI of 1912, applies ;

(3) " co-operative society " means a society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932 ;

Madras
Act VI of
1932.

(4) " Court " includes a court acting in the exercise of insolvency jurisdiction ;

(5) " creditor " means a person, including a pawn-broker, who in the regular course of business advances a loan and includes the legal representative and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan ;

(6) " interest " does not include any sum lawfully charged in accordance with the provisions of this Act by a creditor for or on account of costs, charges, or expenses, but save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a creditor in consideration of or otherwise in respect of a loan ;

(7) " loan " means an advance of money or in kind at interest, being for a sum, or being of a value, of less than five hundred rupees at a time in any one transaction, and includes any transaction which the Court finds in substance to amount to such an advance but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank, or in a bank, in a company or with a co-operative society ;

(ii) an advance made by a bank, a company or a co-operative society ;

(iii) an advance made by Government or by any person authorized by Government to make advances in their behalf, or by any local authority ;

(iv) an advance made by any person *bona fide* carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business ;

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture ;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note ;

XXVI of
1881.

(8) " pawnbroker " means a person who carries on the business of taking goods and chattels in pawn for a loan ;

(9) " pawnor " means a person delivering an article for pawn to a pawnbroker ;

(10) " prescribed " means prescribed by rules made under this Act ; and

(11) " principal " means in relation to a loan the amount actually lent to the debtor.

3. (1) Every creditor shall—

(a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately—

Duty of
creditor to
maintain
accounts
and to give
receipts.

(i) the date of the loan, the amount of the principal of the loan, and the rate per cent per annum of interest charged on the loan ; and

(ii) the amount of every payment received by the creditor in respect of the loan, and the date of such payment ;

(b) give to the debtor or his agent, a receipt for every sum paid by him, duly signed and if necessary, stamped at the time of such payment ; and

(c) on requisition in writing made by the debtor, furnish to the debtor or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and charge such sum as the ¹[Provincial Government] may prescribe as fee therefor.

I of 1872.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in clause (a) of sub-section (1) certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(3) A person to whom a statement of account has been furnished under clause (c) of sub-section (1) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.

Additional accounts to be maintained by pawn-brokers.

4. (1) Every pawnbroker shall regularly record and maintain an account in which, in addition to the particulars referred to in clause (a) of sub-section (1) of section 3, he shall record or cause to be recorded—

- (a) a full and detailed description of the article or of each of the articles taken in pawn,
- (b) the time agreed upon for the redemption of the pawn, and
- (c) the name of the pawner and, where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A copy of the entries in such account shall be delivered by the pawnbroker to the pawner at the time of the pawn on tender of such sum as the ¹[Provincial Government] may prescribe as the charge therefor.

Figures in accounts and receipts to be in Arabic numerals.

5. In the receipt to be given under clause (b) of sub-section (1) of section 3, in the statement of account to be furnished under clause (c) of that sub-section and in the copy of the entries to be delivered under sub-section (2) of section 4, the figures shall be entered only in Arabic numerals.

Penalty for non-compliance with sections 3 and 4.

6. (1) In any suit or proceeding relating to a loan, if the Court finds that a creditor has not maintained an account as required by clause (a) of sub-section (1) of section 3 or by sub-section (1) of section 4, he shall not be allowed his costs.

(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (b) of sub-section (1) of section 3 or to furnish, on a requisition made under clause (c) of that sub-section, a statement of account as required therein within one month after such requisition has been made, or if a pawnbroker fails to deliver to the pawner, a copy of the entries as required by sub-section (2) of section 4, he shall not be entitled to any interest for the period of the default.

Presumption in the case of certain loans.

² [6-A. (1) If in any suit or proceeding relating to a loan advanced after the commencement of the Madras Debtors' Protection (Amendment) Act, 1935, it is found that the

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² Section 6-A was inserted by the Madras Debtors' Protection (Amendment) Act, 1935 (Madras Act IV of 1935), section 2.

X of 1918. interest charged exceeds, in the case of a secured loan, nine per cent per annum simple interest and in the case of an unsecured loan, fifteen per cent per annum simple interest, the Court shall, until the contrary is proved, presume for the purposes of sections 3 and 4 of the Usurious Loans Act, 1918, that the interest charged is excessive and that the transaction was, as between the parties thereto, substantially unfair.

Explanation.—In the case of any loan so advanced, if compound interest is charged and the amount claimed by the creditor by way of such interest until the date of the institution of the suit or proceeding for the recovery of the loan exceeds the amount of simple interest calculated at the rate of nine per cent per annum or fifteen per cent per annum, as the case may be, the Court shall draw the presumption referred to in this sub-section until the contrary is proved.

X of 1918. (2) The provisions contained in sub-section (1) shall be without prejudice to the powers of the Court under sections 3 and 4 of the Usurious Loans Act, 1918, in cases where the Court has reason to believe that the interest charged, though not exceeding nine per cent per annum simple interest or fifteen per cent per annum simple interest, as the case may be, is excessive and that the transaction was, as between the parties thereto, substantially unfair.]

7. Nothing contained in this Act shall apply to any loan advanced before the commencement of this Act. Savings.

8. (1) The ¹[Provincial Government] may make rules Rules. not inconsistent with this Act for the purpose of carrying out all or any of its purposes.

(2) In particular and without prejudice to the generality of the foregoing power the ¹[Provincial Government] may make rules prescribing—

- (a) the sum which may be charged as fee for a statement of account, furnished under clause (c) of sub-section (1) of section 3,
- (b) the manner in which a copy of the account shall be certified for the purpose of sub-section (2) of section 3, and
- (c) the sum which may be charged for a copy of the entries in a pawnbroker's account, to be delivered by the pawnbroker to the pawner under sub-section (2) of section 4.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

MADRAS ACT No. VIII OF 1935. ¹

[THE MADRAS CHRISTIAN MARRIAGES VALIDATION ACT, 1934.]

16th April 1935.]

An Act to validate certain marriages solemnized by Mr. A. Asirvatham of the Self-Supporting Seventh Day Adventist Church for the Tamil country in the district of Tinnevely.

WHEREAS licences were granted by the Government of Madras on the 26th day of October 1928 to Mr. A. Asirvatham of the Self-Supporting Seventh Day Adventist Church for the Tamil country in the district of Tinnevely to solemnize marriages and to grant certificates of marriage between Indian Christians under sections 6 and 9 respectively of the Indian Christian Marriage Act, 1872 ;

XV of 1872.

AND WHEREAS on the 7th day of August 1933 the said licences were revoked by the said Government ;

AND WHEREAS after the date of the said revocation the said Mr. Asirvatham continued to solemnize marriages and to grant certificates of marriage up to and including the 15th day of November 1933 as if the said licences had not been revoked ;

AND WHEREAS it is doubtful whether the marriages so solemnized and the certificates so granted and the other acts done by the said Mr. Asirvatham in virtue of the said revoked licences on and from the 7th day of August 1933 up to and including the 15th day of November 1933 are valid in law ;

AND WHEREAS there is no reason to doubt that the parties to the said marriages believed in good faith that the said Mr. Asirvatham was legally entitled to act on his said revoked licences between the said dates ;

AND WHEREAS it is expedient that all such marriages and all certificates of marriage granted and all other acts relating to such marriages or certificates done by the said Mr. Asirvatham should be validated ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Christian Marriages Validation Act, 1934.

Validation of certain irregular marriages, certificates and acts.

2. All marriages solemnized, all certificates granted and all acts done by the said Mr. Asirvatham on and from the 7th day of August 1933 up to and including the 15th day of November 1933 which would be valid if the licences granted to him on the 26th day of October 1928 had not been revoked shall be deemed to be as valid as if he had held

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 27th November 1934—Part IV, page 476.

(*Transitional Provisions*)

XV of 1872. licences under sections 6 and 9 of the Indian Christian Marriage Act, 1872, on and from the 7th day of August 1933 and up to and including the 15th day of November 1933 and no such marriage, certificate or act shall be deemed to be invalid by reason only of the fact that the said licences were revoked.

XV of 1872. 3. Certificates of marriages validated by section 2 and register-books and certified copies of true and duly authenticated extracts therefrom deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872, shall, in so far as the register-books and extracts relate to such marriages, be received as evidence of such marriages as if such marriages had been duly solemnized under the said Act.

Validation of records of the said irregular marriages.

MADRAS ACT No. XI OF 1935.

[THE MADRAS ELEMENTARY EDUCATION (AMENDMENT) ACT, 1935.]

[4th June 1935.]

An Act further to amend the Madras Elementary Education Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras Elementary Education Act, 1920; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Elementary Education (Amendment) Act, 1935.

Short title and commencement.

(2) It shall come into force on such*date as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], appoint.

⁴ [2-12. * * * * *]

Transitional Provisions.

⁵ [13. * * * * *]

14. If any difficulty arises in first giving effect to the provisions of this Act or of the said Act as amended by this Act, the ² [Provincial Government] may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

Removal of difficulty in giving effect to Act.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 2nd October 1934—Part IV, pages 396-399.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

⁴ Sections 2 to 12 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

⁵ Section 13 was omitted by section 12 of the Madras Elementary Education (Amendment) Act, 1939 Madras Act II of 1939).

* Came into force on the 15th November 1935.

MADRAS ACT No. XIII OF 1935.¹

[THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1935.]

[2nd July 1935.]

An Act further to amend the Madras Local Boards Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras Local Boards Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Local Boards (Amendment) Act, 1935.

² [2-6. * * * * *]

7. In giving effect to the provisions of the said Act or the Madras Local Boards and Elementary Education (Amendment) Act, 1934, as amended by this Act, the said provisions shall be read subject to the modifications specified below :—

Madras Act XIV of 1920 and II of 1934 as amended by this Act to be read subject to certain modifications. Madras Act II of 1934.

(a) The Presidency of Madras (except the City of Madras) shall ³ [. . .] stand divided into three groups of districts, namely, Group I, Group II and Group III, as shown in the Schedule to this Act.

Explanation.—Where a district included in any of the groups is split up into two or more districts, each of such districts shall be deemed to be a district included in such group.

(b) (i) The term of office of the members of every local board holding office on the date of the commencement of this Act shall, subject to the provisions of sections 16, 45 and 45-A, sub-section (2) of section 54, and sections 56, 57 and 59 of the said Act, extend to, or expire on, as the case may be, the noon of such date as the ⁴ [Provincial Government] may fix.

(ii) The ⁴ [Provincial Government] may, from time to time, postpone any date fixed by them under sub-clause (i) and fix another date in lieu thereof.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 22nd January 1935—Part IV, pages 21–22.

² Sections 2 to 6 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

³ The words “on the commencement of this Act” were omitted by section 2 (i) of the Madras Local Boards (Amendment) Act, 1936 (Madras Act XXVI of 1936).

⁴ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(iii) Any date fixed for a local board under sub-clause (i) or sub-clause (ii) shall not be later than the date specified in column (3) of the table below for such board, and ordinary elections shall be held thereto so that the members elected at such elections shall come into office at noon on the date so fixed. The members so elected shall, subject to the provisions mentioned in sub-clause (i), hold office for the term specified in column (4) of the table below. If before the expiry of such term a member is elected at a casual election, he shall hold office only so long as the member in whose place he is elected would have been entitled to hold office.

Area where local boards are situated.	Class of local boards	Latest date which may be fixed for vacation of office by existing members.	Term of office of members elected at the next ordinary elections.
(1)	(2)	(3)	(4)
I. (a) Districts of Vizagapatam, Chingleput, Madura and the Nilgiris.	District boards	31st December 1937.	3 years.
(b) Do.	Panchayats to which ordinary elections have been held in the year 1934-35.	Do.	3 "
(c) Do.	Other panchayats ..	31st December 1935.	2 "
(d) [District of Chicacole.	The district board and all panchayats in the district.	31st December 1937.	3 "]
II. (a) Districts included in Group I, other than the districts of Vizagapatam, ² [Chicacole], Chingleput, Madura and the Nilgiris.	District boards .. .	³ [31st December 1935].	2 "
(b) Do.	Panchayats to which ordinary elections have been held in the year 1934-35.	31st December 1937.	3 "
(c) Do.	Other panchayats ..	31st December 1935.	2 "
III. (a) Districts included in Group II.	District boards	Do.	3 "
(b) Do.	Panchayats to which ordinary elections have been held in the year 1934-35.	31st December 1938.	3 "
(c) Do.	Other panchayats ..	31st December 1935.	3 "
IV. (a) Districts included in Group III.	District boards	31st December 1936.	3 "
(b) Do.	Panchayats to which ordinary elections have been held in the year 1934-35.	Do.	3 "
(c) Do.	Other panchayats ..	Do.	3 "

¹ This item was inserted by section 2 (i) (a) of the Madras Local Boards (Amendment) Act, 1936 (Madras Act XXVI of 1936).

² This word was inserted section 2 (ii) (b), *ibid.*

³ This expression was substituted for the expression 'Do.' by *ibid.*

- (c) The president and the vice-president of every local board holding office on the date of the commencement of this Act shall, subject to the provisions of sub-sections (1) and (2) of section 15 and sections 16, 43, 44, 45 and 45-A of the said Act, hold office up to, or vacate office on the date fixed under clause (b).
- (d) The electoral roll published for any local board under sub-section (1) of section 51 of the said Act, as revised by the list of amendments and corrections, if any, published under sub-section (2) of that section and in force on the date of the commencement of this Act, shall be deemed to be the electoral roll for that local board until the publication of a fresh electoral roll in accordance with the provisions of the said Act as amended by this Act :

Provided that the name of an elector may be included in the list on an application made by him before a prescribed time every year before the month of September on the sole ground that the applicant became qualified to vote after the final publication of the last general electoral roll.

- (e) Notwithstanding anything contained in sub-section (1) of section 51 of the said Act, the ordinary elections which are to be held under clause (b) in the year 1935-36 to panchayats situated in the districts of Vizagapatam, Chingleput, Madura and the Nilgiris shall be held on the basis of the electoral rolls prepared and published in the year 1934-35.
- (f) Any vacancy in the office of an elected member of a local board which is in existence on the date of the commencement of this Act or which occurs before the date fixed under clause (b), shall be filled by election under the provisions of the said Act as amended by this Act.

Explanation.—The office of a member of a local board to which no person had at any time prior to the commencement of this Act been elected, shall be deemed to be vacant within the meaning of this clause.

- (g) Any person elected as president, vice-president or member of a local board after the commencement of this Act but before the date fixed under clause (b) shall, subject to the provisions mentioned in clause (b) or clause (c), as the case may be, hold office up to the date fixed under clause (b).
- (h) If any difficulty arises as to the constitution or reconstitution of any local board after the commencement of this Act or otherwise in giving effect to the

1935: Mad. Act XVI] *Agriculturists' Loans (Madras Amendment).*
(*The Schedule.*)

provisions of this Act or of the Madras Local Boards and Elementary Education (Amendment) Act, 1934, or of the said Act, as amended by this Act, the ¹ [Provincial Government], as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

THE SCHEDULE.

[See section 7 (a).]

Names of districts.	Names of districts
<i>Group I.</i>	<i>Group II—cont.</i>
Vizagapatam.	Kurnool.
² [Chicacole].	Godavari, West.
Chingleput.	Guntur.
Madura.	<i>Group III.</i>
The Nilgiris.	Salem.
Arcot, North.	Malabar.
Bellary.	Godavari, East.
Kanara, South.	Ramnad.
Trichmopoly.	³ [. . .].
<i>Group II.</i>	Combatore.
Anantapur.	Nellore.
Tinnevely.	East Tanjore.
Arcot, South.	West Tanjore.
Cuddapah.	Kistna.
Chittoor.	

MADRAS ACT No. XVI OF 1935.⁴

[THE AGRICULTURISTS' LOANS (MADRAS AMENDMENT)
ACT, 1935.]

[29th October 1935.]

An Act to amend the Agriculturists' Loans Act, 1884, in its application to the Presidency of Madras, for a certain purpose.

WHEREAS it is expedient to amend the Agriculturists' Loans Act, 1884, in its application to the Presidency of Madras, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Agriculturists' Loans Act, 1935. (Madras Amendment) Act, 1935. Short title.

2. In sub-section (1) of section 4 of the Agriculturists' Loans Act, 1884, after the words "the relief of distress," the words "or indebtedness," shall be inserted. Amendment of section 4, Act XII of 1884.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This entry was inserted by section 3 (a) of the Madras Local Boards (Amendment) Act, 1936 (Madras Act XXVI of 1936).

³ The entry "Ganjam" was omitted by section 3 (b), *ibid.*

⁴ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 23rd July 1935—Part IV, page 272.

MADRAS ACT No. XX OF 1935.¹

[THE MADRAS BETTING TAX ACT, 1935.]

[19th November 1935.]

An Act to provide for the levy of a tax on certain forms of betting in the Presidency of Madras.

WHEREAS it is necessary to make an addition to the public revenues of the Presidency of Madras and for that purpose to provide for the levy of a tax on certain forms of betting; It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Betting Tax Act, 1935.

(2) It extends to the whole of the Presidency of Madras.

(3) (a) This section shall come into force at once.

(b) The remaining provisions of this Act shall come into force in the district of Chingleput-Madras on the 15th day of November 1935.

(c) The ² [Provincial Government] may, by notification in the ³ [Official Gazette], direct that all or any of the remaining provisions of this Act shall come into force in any other local area on such date as may be specified in such notification :

⁴ [Provided that no such notification shall be published in respect of any area included in a cantonment without the previous sanction of the ⁵ (Central Government).]

Application
of the Act
and savings.

2. (1) This Act shall apply only to betting at meetings for horse-races and pony-races.

(2) Nothing in this Act shall affect the provisions of the Madras Act III of 1888, Madras Act III of 1930, regarding the time and place at which betting on horse-races may take place.

Definitions.

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

(a) “ backer ” includes any person who bets at a totalizator or with a book-maker ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 22nd October 1935—Part IV, pages 318-319.

² These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words “ *Fort St. George Gazette* ” by *ibid.*

⁴ This proviso was added by section 2 of the Madras Betting Tax (Amendment) Act, 1936 (Madras Act XIV of 1936).

⁵ These words were substituted for the words “ Governor-General in Council ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

- (b) "bet" includes wager; and "betting" includes wagering;
- (c) "book-maker" means a person who carries on the business of making bets with the public in general;
- (d) "director" means the person (whether an individual, a corporate body or an association) primarily responsible for the holding of a race-meeting;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "race-meeting" means an assembly of persons for horse-racing or pony-racing to which the public have access whether on payment or otherwise; and
- (g) "totalizator" means any machine, instrument or contrivance for enabling persons to make bets with one another on the principle of a common pool.

4. (1) The ¹ [Provincial Government] may, by notification in the ² [Official Gazette], from time to time, direct that a tax (hereinafter referred to as the totalizator tax) shall be levied on backers in respect of all moneys paid by them into any totalizator by way of stakes or bets.

Levy of totalizator tax.

(2) Every notification issued under sub-section (1) shall specify the local area in which, the rate at which, and the date from which, the totalizator tax shall be levied:

Provided that the rate shall not exceed four per cent of every sum paid into the totalizator.

(3) Such portion of the moneys paid into the totalizator as is equivalent to the amount of the totalizator tax calculated at the rate specified in the notification aforesaid shall be deemed to have been paid by the backer on account of the totalizator tax and to have been received by the director on behalf of the ¹ [Provincial Government].

5. (1) The ¹ [Provincial Government] may, by notification in the ² [Official Gazette], from time to time, direct that a tax (hereinafter referred to as the betting tax) shall be levied on book-makers in respect of all moneys (exclusive of the amount of the bets) paid or agreed to be paid by them to backers in consequence of the winning by the latter of bets made in a place within the race enclosure which the director has, with the sanction of the ¹ [Provincial Government], set apart for the purpose of such betting.

Levy of tax on bets made with book-makers.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Fort St. George Gazette" by *ibid.*

(2) Every notification issued under sub-section (1) shall specify the local area in which, the rate at which, and the date from which, the betting tax shall be levied :

Provided that the rate shall not exceed four per cent of every sum paid out by a book-maker to a winning backer, the amount of the bet being excluded.

(3) The betting tax shall be collected, and paid to the ¹[Provincial Government], in such manner as may be prescribed.

Accounts
and returns.

6. The director of every race-meeting at which betting takes place shall—

- (a) cause accounts to be kept in the prescribed manner of all sums paid into every totalizator used, and of all sums paid or agreed to be paid by book-makers to backers in consequence of bets won by the latter at such meeting ;
- (b) forward at the time, in the manner, and to the officer, prescribed in this behalf, a return showing the total amount of the moneys paid into every totalizator used at such meeting and whenever required, make over to the prescribed officer the amount of totalizator tax collected at such meeting ; and
- (c) furnish such other reports and returns as may be prescribed.

Levy or tax
in cases not
falling under
sections 4
and 5.

7. The director of every race-meeting held in any local area in respect of which a notification has not been issued under section 4 or section 5 shall pay to the ¹[Provincial Government] by way of tax, in respect of such meeting, such amount not exceeding five hundred rupees as may be prescribed.

Inspectors.

8. (1) The ¹[Provincial Government] may appoint persons, and may authorize them to appoint other persons, for any local area, to inspect race-meetings and the accounts of betting thereat.

(2) Every person appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and shall be given free access to every race-meeting held in the local area for which he has been appointed and to every place ^{XLV of 1860.}

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

where betting is conducted at such race-meeting, and to all books of account relating to such betting, whether such books belong to the director or to any book-maker. ;

9. The ¹ [Provincial Government] may, by notification in Exemptions. the ² [Official Gazette], exempt any race-meeting from—

- (a) the totalizator tax leviable under section 4, or
- (b) the betting tax leviable under section 5, or
- (c) the tax leviable under section 7.

10. (1) The ¹ [Provincial Government] may, by notification in the ² [Official Gazette], make rules—

- (a) with reference to all matters expressly required or allowed by this Act to be prescribed, and
- (b) to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, the ¹ [Provincial Government] shall have power to make rules regarding the manner in which any tax payable under this Act may be recovered. ³ [Such rules may provide for the recovery of the tax as an arrear of land revenue.]

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

³ This sentence was added by section 3 of the Madras Betting Tax (Amendment) Act, 1936 (Madras Act XIV of 1936).

MADRAS ACT No. I OF 1936.

[THE MADRAS ESTATES LAND (AMENDMENT) ACT, 1935.]

[7th January 1936.]

An Act to amend the Madras Estates Land (Amendment) Act, 1934, for a certain purpose.

WHEREAS it is expedient to amend the Madras Estates Land (Amendment) Act, 1934, for the purpose hereinafter appearing; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Estates Land (Amendment) Act, 1935.

Amendment of section 127, Madras Act VIII of 1934.

2. (1) In sub-section (2) of section 127 of the Madras Estates Land (Amendment) Act, 1934 (hereinafter referred to as the said Act), for the expression " 1st day of November 1935 " in both the places where it occurs, the expression " 2[1st day of November 1936] " shall be substituted.

(2) The said Act shall be read and construed as if the amendment hereby enacted had formed part of the said Act from its commencement.

MADRAS ACT No. II OF 1936.³

[THE MADRAS CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1935.]

[7th January 1936.]

An Act further to amend the Madras Co-operative Societies Act, 1932, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Co-operative Societies Act, 1932, for the purpose herein after appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Co-operative Societies (Amendment) Act, 1935.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Extraordinary, dated 1st November 1935—Part IV, page 2.

² This expression which was substituted for the expression " 1st day of May 1936 " by section 2 (1) of the Madras Estates Land (Second Amendment) Act, 1936 (Madras Act XIII of 1936), should be read as " date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936 " by virtue of section 12 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

³ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 29th October 1935—Part IV, page 322.

1936 : Mad. Act II] Co-operative Societies (Amendment) 43†
1936 : Mad. Act III] Indian Registration
(Madras Amendment)

Madras Act VI of 1932. **2.** For sub-section (5) of section 43 of the Madras Amendment of section 43, Madras Act VI of 1932. Co-operative Societies Act, 1932, the following sub-section shall be substituted, namely :—
 [Vide p. 302, *supra*.]

MADRAS ACT No. III OF 1936.¹

[THE INDIAN REGISTRATION (MADRAS AMENDMENT) ACT, 1935.]

[21st January 1936.]

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Madras for a certain purpose.

XVI of 1908. WHEREAS it is expedient to amend the Indian Registration Act, 1908, in its application to the Presidency of Madras, for the purpose hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Indian Registration (Madras Amendment) Act, 1935. Short title.

XVI of 1908. 2. After sub-section (4) of section 89 of the Indian Registration Act, 1908, the following sub-section shall be added, Amendment of section 89, Act XVI of 1908. namely :—

Madras Act X of 1934. Madras Act VI of 1932. “(5) Every officer granting a certificate of sale of immovable property under the Madras Co-operative Land Mortgage Banks Act, 1934, or the rules made under the Madras Co-operative Societies Act, 1932, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such registering officer shall file the copy in his Book No. I.”

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 15th October 1935—Part IV, p. 306. 11

1936 : Mad. Act V]	<i>Irrigation Cess and Land Encroachment (Amendment)</i>	433
1936 : Mad. Act VI]	<i>Estates Land (Amendment,</i>	

- Madras Act III of 1905. 1905—
3. In section 10 of the Madras Land Encroachment Act, Amendment of section 10, Madras Act III of 1905.
- (i) in sub-section (1), the words “ or the Local Government ” shall be omitted ; and
- (ii) in sub-section (2), for the words “ the District Collector, the Board of Revenue or the Local Government ” the words “ the District Collector or the Board of Revenue ” shall be substituted.

MADRAS ACT No. VI OF 1936.¹

[THE MADRAS ESTATES LAND (AMENDMENT) ACT, 1936.]

[31st March 1936.]

An Act further to amend the Madras Estates Land Act, 1908, for certain purposes.

Madras Act I of 1908. WHEREAS it is expedient further to amend the Madras Estates Land Act, 1908, for the purposes hereinafter appearing ; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Estates Land (Amendment) Act, 1936. Short title and commencement.
- (2) It shall come into force on the first day of March 1936.
2. After section 39 of the Madras Estates Land Act, 1908 (hereinafter referred to as the said Act), the following section shall be inserted, namely :— Insertion of new section 39-A in Madras Act I of 1908. *
- [Vide pp. 409-410, Vol. II.]
3. In section 215 of the said Act— Amendment of section 215, Madras Act I of 1908.
- (i) in clause (1) of the second paragraph—
- (a) the word “ and ” at the end of sub-clause (b) shall be omitted and at the end of sub-clause (c) the word “ and ” shall be inserted ; and
- (b) after sub-clause (c), the following sub-clause shall be added, namely :—
- [Vide p. 479, Vol. II.] ; and
- (ii) after clause (1) of the said paragraph, the following shall be added as clause (1-A), namely :—
- [Vide p. 479, Vol. II.]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 5th February 1935—Part IV, pages 27-28.

MADRAS ACT No. VII OF 1936.¹

[THE MADRAS FOREST (AMENDMENT) ACT, 1936.]

[14th April 1936.]

An Act further to amend the Madras Forest Act, 1882, for certain purposes.

WHEREAS it is expedient further to amend the Madras Forest Act, 1882, for the purposes hereinafter appearing; Madras Act
V of 1882.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Forest (Amendment) Act, 1936.

2. In section 2 of the Madras Forest Act, 1882 (hereinafter referred to as the said Act), for the words " Sub-Assistant Conservator " occurring in the definition of " Forest-officer " the words " Extra Assistant Conservator " shall be substituted. Madras Act
V of 1882.

Insertion of new section 17-A in Madras Act V of 1882.

3. After section 17 of the said Act, the following section shall be inserted, namely :—

[Vide pp. 73-74, Vol. II.]

Amendment of section 34, Madras Act V of 1882.

4. To section 34 of the said Act, the following paragraph shall be added at the end, namely :—

[Vide p. 80, Vol. II.]

Amendment of sections 41 and 43, Madras Act V of 1882.

5. In sections 41 and 43 of the said Act, for the word ' carts ', the word ' vehicles ' shall be substituted.

Substitution of new section for section 46, Madras Act V of 1882.

6. For section 46 of the said Act, the following section shall be substituted, namely :—

[Vide p. 85, Vol. II.]

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 29th October 1935—Part IV, pages 324-325.

MADRAS ACT No. VIII OF 1936. ¹

[THE MADRAS REVENUE (MISCELLANEOUS AMENDMENTS)
ACT, 1936.]

[14th April 1936.]

An Act further to amend the Madras Revenue Malversations Regulation, 1822, the Madras Subordinate Collectors and Revenue Malversations (Amendment) Regulation, 1828, and the Madras Land Revenue Assessment Act, 1876, for certain purposes.

Madras
Regulation
IX of 1822.
Madras
Regulation
VII of 1828.
Madras Act
I of 1876.

WHEREAS it is expedient further to amend the Madras Revenue Malversations Regulation, 1822, the Madras Subordinate Collectors and Revenue Malversations (Amendment) Regulation, 1828, and the Madras Land Revenue Assessment Act, 1876, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Revenue (Miscellaneous Amendments) Act, 1936. Short title.

2. Section 15 of the Madras Revenue Malversations Regulation, 1822, shall be omitted. Repeal of section 15, Madras Regulation IX of 1822.

3. In section 6 of the Madras Subordinate Collectors and Revenue Malversations (Amendment) Regulation, 1828,— Amendment of section 6, Madras Regulation VII of 1828.
(i) in the second clause the words “ or will report the case for the orders of the Governor in Council ” and the words “ will simply ” shall be omitted; and
(ii) the third clause shall be omitted.

4. In section 8 of the Madras Land Revenue Assessment Act, 1876, for the words “ The Governor in Council ”, the words “ If no such appeal has been preferred, the Board of Revenue ” shall be substituted. Amendment of section 8, Madras Act I of 1876.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 7th January 1936—Part IV, pages 2-4.

Commercial Crops Markets [1936 : Mad. Act IX
(Amendment)
City Municipal (Amendment) [1936 : Mad. Act X

MADRAS ACT No. IX OF 1936.¹

[THE MADRAS COMMERCIAL CROPS MARKETS
(AMENDMENT) ACT, 1936.]

[21st April 1936.]

An Act to amend the Madras Commercial Crops Markets Act, 1933, for certain purposes.

WHEREAS it is expedient to amend the Madras Commercial Crops Markets Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Commercial Crops Markets (Amendment) Act, 1936.

Insertion of new section 5-A in Madras Act XX of 1933.

2. After section 5 of the Madras Commercial Crops Markets Act, 1933 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

[*Vide p. 346, supra.*]

Amendment of section 6, Madras Act XX of 1933.

3. In section 6 of the said Act—

(i) to sub-section (1), the following proviso shall be added, namely :—

[*Vide pp. 346-347, supra.*]; and

(ii) in sub-section (2), after the words “ Every member ” the words, figure and brackets “ other than a member appointed under the proviso to sub-section (1) ” shall be inserted.

MADRAS ACT No. X OF 1936.²

[THE MADRAS CITY MUNICIPAL (AMENDMENT) ACT, 1936.]

[21st April 1936.]

An Act to amend the Madras City Municipal Act, 1919, for certain purposes.

WHEREAS it is expedient to amend the Madras City Municipal Act, 1919, for the purposes hereinafter appearing;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Municipal (Amendment) Act, 1936.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 21st January 1936—Part IV, page 21.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 24th July 1934, pages 310-348.

Madras Act
IV of 1919.

2. (1) In the Madras City Municipal Act, 1919 (herein-
after referred to as the said Act), for the words "Governor in
Council" wherever they occur, the words "¹ [Provincial
Government]" shall be substituted.

Amendment
of certain
provisions of
Madras Act
IV of 1919.

(2) The provisions of the said Act specified in the first
two columns of the annexed Schedule are hereby amended to
the extent and in the manner specified in the third and fourth
columns thereof.

3. In section 3 of the said Act—

Amendment
of section 3,
Madras Act
IV of 1919.

(i) clause (1) shall be renumbered as clause (1-A) and the
following shall be inserted as clause (1), namely :—
2 [* * * * *]

(ii) in clause (5), after the words "lawfully extend",
the words "and beyond which no portion of the
building may extend except as prescribed in the
building rules" shall be added ;

(iii) in clause (8), for the words "a divisional councillor",
the words "a councillor or an alderman" shall be
substituted ;

(iv) after clause (8), the following clause shall be inserted,
namely :—
[*Vide p. 56, Vol. III.*]

(v) after clause (9), the following clauses shall be inserted,
namely :—
[*Vide pp. 56-57, Vol. III.*]

(vi) in clause (10), for sub-clause (a), the following sub-
clause shall be substituted, namely :—
[*Vide p. 57, Vol. III.*]

(vii) after clause (11), the following clause shall be
inserted, namely :—
[*Vide p. 57, Vol. III.*]

(viii) for clause (13), the following clauses shall be
substituted, namely :—
[*Vide p. 58, Vol. III.*]

(ix) after clause (14), the following clause shall be
inserted, namely :—
[*Vide p. 58, Vol. III.*]

(x) in clause (15), after the words "is used," the words
"or damages on account of the occupation of such
land, building or part and also a rent-free tenant"
shall be added ;

¹ These words were substituted for the words "Local Government" by
paragraph 4 (1) of the Government of India (Adaptation of Indian Laws)
Order, 1937.

² This clause was omitted by virtue of section 2 (1) (i) of the Madras City
Municipal, District Municipalities and Local Boards (Amendment) Act, 1938
(Madras Act II of 1938).

(xi) for clause (16), the following clause shall be substituted, namely :—

[Vide p. 58, Vol. III.]

(xii) in clause (20), for the words “ whether a thoroughfare or not, over which the public have a right of way ” the words “ over which the public have a right of way, whether a thoroughfare or not ” shall be substituted ;

(xiii) after clause (20), the following clause shall be inserted, namely :—

[Vide p. 59, Vol. III.]

(xiv) in clause (23), after the word “ house ” in both the places where it occurs, the words “ or hut ” shall be inserted and for the words “ return thereto ” the words “ return to such house or hut ” shall be substituted ;

(xv) after clause (25), the following clause shall be inserted, namely :—

[Vide p. 60, Vol. III.]; and

(xvi) after clause (26), the following clause shall be inserted, namely :—

[Vide p. 60, Vol. III.]

Amendment of section 5, Madras Act IV of 1919.

4. In section 5 of the said Act, sub-section (2) shall be renumbered as sub-section (3) and for sub-section (1), the following sub-sections shall be substituted, namely :—

[Vide pp. 61-62, Vol. III.]

Substitution of new section for section 6, Madras Act IV of 1919.

5. For section 6 of the said Act, the following section shall be substituted, namely :—

[Vide p. 62, Vol. III.]

Amendment of section 8, Madras Act IV of 1919.

6. In sub-section (2) of section 8 of the said Act, for the figures and word “ 33 councillors ”, the words “ forty-three members thereof ” shall be substituted.

Amendment of section 15, Madras Act IV of 1919.

7. In sub-section (1) of section 15 of the said Act, for the words “ contribute to his leave allowances ”, the words “ ¹[make] such contribution towards his passages, leave allowances ” and for the words “ to the extent required by the regulations of the Governor-General in Council for the time being in force with respect to civil or military officers ”, the words “ as may be ²[required, by the conditions of his service under the crown, to be paid by him or on his behalf] ” shall be substituted.

¹ This word was substituted for the words “ pay to the Government ” by paragraph 6 of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words “ payable under the rules and regulations of the branch of the Government service to which he belongs and in force for the time being ” by *ibid.*

8. In section 16 of the said Act—
- (i) for the figures ' 55 ', the figures and letter ' 55-A ' shall be substituted ;
- (ii) after the figures ' 56 ', the figures and letter ' 56-A ' shall be inserted ; and
- (iii) the figures ' 58 ', ' 290 ' and ' 391 ' shall be omitted.
- Amendment
of section
16, Madras
Act IV of
1919.
9. In section 18 of the said Act, for the words " authorize the health officer or the engineer or the revenue officer or any person in temporary charge of the duties of the health officer, engineer or revenue officer ", the words " authorize the health officer, the engineer, the electrical engineer, the water-works engineer, the revenue officer, the educational officer, or any other officer who is the head of a department working under the commissioner, or any person in temporary charge of the duties of any of the officers aforesaid " shall be substituted.
- Amendment
of section
18, Madras
Act IV of
1919.
10. In section 19 of the said Act, after the word ' councilor ' wherever it occurs, the words ' or alderman ' shall be inserted.
- Amendment
of section
19, Madras
Act IV of
1919.
11. In section 20 of the said Act—
- (i) in sub-section (2), for the words " ' taxation and finance ' standing committees ", the words " accounts standing committee ", and for the words " such sums due to the corporation as appear to the committee " in clause (d), the words " the amount of any loss of, or of any depreciation caused to, municipal property which appears to the committee " shall be substituted ; and
- (ii) after sub-section (2), the following sub-sections shall be added, namely :—
- [*Vide pp. 66-67, Vol. III.*]
- Amendment
of section
20, Madras
Act IV of
1919.
12. In section 25 of the said Act, after the word " councilor " wherever it occurs, the words " or alderman " shall be inserted.
- Amendment
of section
25, Madras
Act IV of
1919.
13. After section 25 of the said Act, the following section shall be inserted, namely :—
- [*Vide p. 68, Vol. III.*]
- Insertion of
new section
25-A in
Madras Act
IV of 1919.
14. After section 27 of the said Act, the following section shall be inserted, namely :—
- [*Vide pp. 69-70, Vol. III.*]
- Insertion of
new section
27-A in
Madras Act
IV of 1919.

Substitution of new section for section 28, Madras Act IV of 1919.
Amendment of section 29, Madras Act IV of 1919.

15. For section 28 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 70, Vol. III.*]

16. In section 29 of the said Act—

- (i) after the word “ Mayor ” in both the places where it occurs, the words “ Deputy Mayor ” shall be inserted ;
- (ii) for the words “ entitled to hold office till the election of his successor ” the words “ entitled to hold office from the time of his election and until the election of his successor ” shall be substituted ; and
- (iii) after the words “ a councillor ” the words “ or an alderman ” shall be inserted.

Amendment of section 30, Madras Act IV of 1919.

17. In section 30 of the said Act, after the word “ Mayor,” the words “ Deputy Mayor ” shall be inserted.

Substitution of new section for section 31, Madras Act IV of 1919.

18. For section 31 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 71, Vol. III.*]

Amendment of section 32, Madras Act IV of 1919.

19. In section 32 of the said Act—

- (i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—
[*Vide p. 71, Vol. III.*]
- (ii) in sub-section (3), after the word “ Mayor ” where it first occurs, the words “ the Deputy Mayor ” and after the word “ Mayor ” where it occurs for the second time, the words “ Deputy Mayor ” shall be inserted ; and
- (iii) in sub-section (4), for the word “ councillor”, the words “ Deputy Mayor, councillor or alderman ” shall be substituted and after the words “ for that meeting”, the words “ and during the period that he presides over it ” shall be inserted.

Amendment of section 34, Madras Act IV of 1919.

20. In section 34 of the said Act—

- (i) after the word “ councillor ” wherever it occurs, the words “ or alderman ” shall be inserted ;
- (ii) in sub-section (4), for the word “ believed”, the word “ alleged ” shall be substituted ; and
- (iii) after sub-section (4), the following sub-section and Explanation shall be added, namely :—
[*Vide p. 73, Vol. III.*]

21. For section 35 of the said Act, the following section shall be substituted, namely :—
[Vide p. 73, Vol. III.]
22. For section 37 of the said Act, the following section shall be substituted, namely :—
[Vide pp. 73-74, Vol. III.]
23. For section 38 of the said Act, the following section shall be substituted, namely :—
[Vide p. 74, Vol. III.]
24. After section 38 of the said Act, the following heading and section shall be inserted, namely :—
[Vide p. 74, Vol. III.]
25. In the heading of Chapter III of the said Act, after the word "COUNCILLORS", the words "AND ALDERMEN" shall be inserted.
26. In the heading to sections 45 to 54 of the said Act, for the words "*and Councillors*", the words "*Councillors and Aldermen*" shall be substituted.
27. For sections 45 to 49 of the said Act, the following sections shall be substituted, namely :—
[Vide pp. 77-80, Vol. III.]
28. For section 51 of the said Act, the following section shall be substituted, namely :—
[Vide pp. 80-81, Vol. III.]
29. For section 52 of the said Act, the following section shall be substituted, namely :—
[Vide pp. 81-83, Vol. III.]
30. In section 53 of the said Act—
 (i) for sub-section (1), the following sub-section shall be substituted, namely :—
[Vide p. 83, Vol. III.]

Substitution of new section for section 35, Madras Act IV of 1919.

Substitution of new section for section 37, Madras Act IV of 1919.

Substitution of new section for section 38, Madras Act IV of 1919.

Insertion of new section 38-A, Madras Act IV of 1919.

Amendment of heading of Chapter III, Madras Act IV of 1919.

Amendment of heading to sections 45 to 54, Madras Act IV of 1919.

Substitution of new sections for sections 45 to 49, Madras Act IV of 1919.

Substitution of new section for section 51, Madras Act IV of 1919.

Substitution of new section for section 52, Madras Act IV of 1919.

Amendment of section 53, Madras Act IV of 1919.

- (ii) in sub-section (3)—
- (a) after the word “councillor”, the words “or alderman” shall be inserted;
 - (b) for the word, letter and brackets “clause (h)”, the word, letter and brackets “clause (g)” shall be substituted; and
 - (c) the following sentence shall be added at the end, namely :—
[*Vide p. 84, Vol. III.*] ; and
- (iii) in sub-section (4), after the words “a councillor”, the words “or an alderman” shall be inserted and for the words ‘next general meeting’ the words ‘next ordinary meeting’ shall be substituted.

Insertion of new section 53-A in Madras Act IV of 1919.

31. After section 53 of the said Act, the following section shall be inserted, namely :—

[*Vide pp. 84–85, Vol. III.*]

Amendment of section 54, Madras Act IV of 1919.

32. In section 54 of the said Act—

- (i) in sub-section (1)—
- (a) after the word “councillor” where it occurs for the first time, the words “or elected as an alderman” shall be inserted;
 - (b) after the word and figures “section 53”, the words, figures and letter “or section 53-A” shall be inserted;
 - (c) after the word “councillor” except where it occurs for the first time, the words “or alderman” shall be inserted; and
 - (d) after the words “at the request of the council”, the words “or on a direction from the ¹[Provincial Government]” shall be inserted;
- (ii) in sub-section (2), after the word and figures “section 53”, the words, figures and letter “or section 53-A” shall be inserted; and
- (iii) for sub-section (3), the following sub-section shall be substituted, namely :—
[*Vide p. 85, Vol. III.*]

Amendment of section 55, Madras Act IV of 1919.

33. (1) Sub-section (1) of section 55 of the said Act shall be renumbered as section 55 and in that section as so renumbered, for the words “divisional councillors”, the words “councillors and aldermen” shall be substituted.

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(2) Sub-sections (2), (3) and (4) of section 55 of the said Act shall be renumbered as sub-sections (1), (2) and (3) respectively of section 55-A and in sub-section (1) of that section as so renumbered, for the words " next preceding ", the words " immediately preceding " shall be substituted.

34. In section 56 of the said Act, for the word and figures " section 55 ", the word, figures and letter " section 55-A " shall be substituted.

Amendment of section 56, Madras Act IV of 1919.

35. After section 56 of the said Act, the following sections shall be inserted, namely :—

[*Vide pp. 86-87, Vol. III.*]

Insertion of new sections 56-A, 56-B and 56-C in Madras Act IV of 1919.

36. For section 57 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 87-88, Vol. III.*]

Substitution of new section for section 57, Madras Act IV of 1919.

37. For section 58 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 88, Vol. III.*]

Substitution of new section for section 58, Madras Act IV of 1919.

38. In section 59 of the said Act—

(i) in sub-section (1), for the words " divisional and other elections ", the words " elections and appointments " shall be substituted ; and

(ii) in sub-section (2)—

(a) ¹ [for the words " the electoral roll " in clauses (a) and (b), the words " electoral rolls "] and for the word " elections " in clause (b), the words " elections or appointments ; " shall be substituted ; and

(b) after clause (b), the following shall be added, namely :—

[*Vide p. 88, Vol. III.*]

Amendment of section 59, Madras Act IV of 1919.

39. Sections 60, 61, 62, 63, 64, 65, 67, 68, 69 and 70 of the said Act shall be omitted.

Repeal of sections 60, 61, 62, 63, 64, 65, 67, 68, 69 and 70, Madras Act IV of 1919.

¹ This portion has become inoperative by virtue of later amendments—see footnotes 5 and 6 at page 88, Volume III.

- Substitution of new section for section 71, Madras Act IV of 1919. **40.** For section 71 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 89, Vol. III.*]
- Amendment of section 75, Madras Act IV of 1919. **41.** In section 75 of the said Act, after sub-section (4), the following sub-section shall be added, namely :—
[*Vide p. 91, Vol. III.*]
- Insertion of new section 76-A in Madras Act IV of 1919. **42.** After section 76 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 91, Vol. III.*]
- Amendment of section 82, Madras Act IV of 1919. **43.** In section 82 of the said Act, in the proviso to sub-section (1), after the words “standing committee may,” the words “at the instance of the commissioner and” shall be inserted.
- Amendment of section 85, Madras Act IV of 1919. **44.** In sub-section (1) of section 85 of the said Act—
(i) for the words “and a revenue officer,” the words “an electrical engineer, a water-works engineer, a revenue officer, and educational officer, and such other officers as it may consider necessary” shall be substituted ;
(ii) in the proviso—
(a) the word ‘and’ at the end of the clause (a) shall be omitted ; and
(b) for clause (b), the following clause shall be substituted, namely :—
[*Vide p. 94, Vol. III.*] ; and
(iii) after clause (b), the following clauses shall be added, namely :—
[*Vide pp. 94–95, Vol. III.*]
- Amendment of section 86, Madras Act IV of 1919. **45.** In clause (b) of section 86 of the said Act, the word “special” before the word “engineers” shall be omitted and for the words “special scheme undertaken by the corporation,” the words “scheme or work undertaken by the corporation” shall be substituted.
- Amendment of section 87, Madras Act IV of 1919. **46.** In sub-section (2) of section 87 of the said Act, for the word “thirty” the word “forty-five” shall be substituted.
- Amendment of section 88, Madras Act IV of 1919. **47.** In section 88 of the said Act—
(i) in sub-section (1), all the words beginning with the words “and shall be so removed” and ending with the words “thirty-three councillors” shall be omitted ;

(ii) to sub-section (2), the following proviso shall be added, namely :—

[*Vide p. 96, Vol. III.*] ; and

(iii) in sub-section (3), for the words “ the corporation shall contribute to his leave allowances ”, the words “ he shall be entitled to leave and other privileges in accordance with the rules and regulations of the branch of Government service to which he belongs and in force for the time being and the corporation shall ¹ [make] such contribution towards his passages, leave allowances ” shall be substituted and for the words “ to the extent required by the regulations of the Governor-General in Council for the time being in force with respect to civil and military officers ”, the words “ as may be payable under such rules and regulations ” shall be substituted.

48. (1) Section 94 of the said Act shall be renumbered sub-section (1) of section 94 and in that sub-section as so renumbered, for the words “ contribute to his pension and leave allowances to the extent required by the rules made by the Governor-General in Council in this behalf and for the time being in force ”, the words “ ² [make] such contribution towards his passages, leave allowances, pension and provident fund as may be ³ [required to be made by him or on his behalf] under the rules and regulations of the branch of Government service to which he belongs ” shall be substituted.

Amendment
of section
94, Madras
Act IV of
1919.

(2) To the same section, the following sub-section shall be added, namely :—

[*Vide p. 99, Vol. III.*]

49. In section 95 of the said Act—

(i) for the words and figures “ sections 86, 88 and 94 ”, the words “ this Act ” shall be substituted ; and
(ii) in the first proviso, after the words “ every regulation framed under ” the words, letter and brackets “ clause (b) in respect of any officer whose appointment is subject to confirmation by the [Provincial Government] or ” shall be inserted.

Amendment
of section
95, Madras
Act IV of
1919.

50. Sub-section (2) of section 96 of the said Act shall be renumbered as sub-section (3) and for sub-section (1), the following sub-sections shall be substituted, namely :—

[*Vide pp. 100–101, Vol. III.*]

Amendment
of section
96, Madras
Act IV of
1919.

¹ This word was substituted for the words “ pay to the Local Government ” by paragraph 6 of the Government of India (Adaptation of Indian Laws) Order, 1937.

² This word was substituted for the words “ pay to the Government ” by *ibid.*

³ These words were substituted for the word “ payable ” by *ibid.*

⁴ These words were substituted for the words “ Local Government ” by paragraph 4 (1), *ibid.*

Amendment
of section
97, Madras
Act IV of
1919.

51. In section 97 of the said Act, for the word and figures "section 88", the words and figures "sections 88 and 94" shall be substituted.

Amendment
of section
98, Madras
Act IV of
1919.

52. In section 98 of the said Act,—

(i) for the word "corporation", the word "council" shall be substituted;

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

[Vide p. 101, Vol. III.]; and

(iii) existing clause (g) shall be relettered (h).

Insertion of
new section
98-A in
Madras Act
IV of 1919.

53. After section 98 of the said Act, the following section shall be inserted, namely:—

[Vide p. 102, Vol. III.]

Amendment
of section
99, Madras
Act IV of
1919.

54. In section 99 of the said Act—

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

[Vide p. 103, Vol. III.]; and

(ii) to sub-section (3), the following proviso shall be added, namely:—

[Vide p. 103, Vol. III.]

Amendment
of section
100, Madras
Act IV of
1919.

55. In sub-section (2) of section 100 of the said Act—

(i) before the words "reasonably be expected to let" the words "at the time of assessment" and after the words "less a deduction", the words "in the case of buildings only" shall be inserted;

(ii) for clause (a) of the proviso, the following clause shall be substituted, namely:—

[Vide p. 104, Vol. III.]

(iii) in clause (b) of the proviso, after the word "machinery", the words "and furniture" shall be inserted; and

(iv) after the proviso, the following further proviso shall be added, namely:—

[Vide p. 104, Vol. III.]

Amendment
of section
101, Madras
Act IV of
1919.

56. In section 101 of the said Act—

(i) in clause (a), for the word "buildings", the word "places" shall be substituted;

(ii) clauses (c), (d) and (e) shall be relettered (g), (h) and (i), respectively, and for clause (b), the following clauses shall be substituted, namely:—

[Vide pp. 104–105, Vol. III.]

(iii) in clause (h) as relettered after the words “ the Buckingham canal ” the words “¹ [Crown lands] set apart free for recreation purposes ” shall be inserted and for the words “ and all such other property of Government not being buildings as may from time to time be notified by the Governor in Council with the consent of the Corporation ; ” the words and brackets “ and all such other ² [Crown property] (being neither buildings nor land from which in the opinion of ³ [the Provincial Government] any income could be derived) as may from time to time be notified by the ⁴ [Provincial Government] ; ” shall be substituted ; and at the end of clause (h) before the word “ and ” the following proviso shall be inserted, namely :—

[*Vide p. 105, Vol. III.*] ; and

iv) for clause (i) as relettered the following clause shall be substituted, namely :—

[*Vide pp. 105–106, Vol. III.*]

57. In section 102 of the said Act—

(i) for the words “ The Council shall levy the property tax at a uniform rate ” the following shall be substituted, namely :—

[*Vide p. 106, Vol. III.*]

(ii) in clause (a) of the proviso, for the words “ such areas are not deriving benefit ”, the words “ such area is not deriving any or the full benefit ” shall be substituted ; and

(iii) clause (b) of the proviso shall be omitted and clauses (c) and (d) thereof shall be relettered (b) and (c) respectively.

58. For section 104 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 107, Vol. III.*]

Amendment
of section
102, Madras
Act IV of
1919.

59. For section 105 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 107–108, Vol. III.*]

Substitution
of new
section for
section 104,
Madras Act
IV of 1919.

Substitution
of new
section
for section
105, Madras
Act IV of
1919.

¹ These words were substituted for the words “ Government lands ” by paragraph 6 of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words “ property of Government ” by *ibid.*

³ These words were substituted for the words “ the Government ” by *ibid.*

⁴ These words were substituted for the words “ Local Government ” by paragraph 4 (1), *ibid.*

- Amendment of section 106, Madras Act IV of 1919. **60.** In sub-section (4) of section 106 of the said Act, before the words "continue liable", the words "in addition to any other liability which he may incur through such neglect" shall be inserted.
- Substitution of new sections for sections 107 and 108, Madras Act IV of 1919. **61.** For sections 107 and 108 of the said Act, the following sections shall be substituted, namely :—
[*Vide pp. 108–110, Vol. III.*]
- Amendment of section 109, Madras Act IV of 1919. **62.** In sub-section (1) of section 109 of the said Act—
(i) for the words "within a week after the service of the notice", the words "within thirty days after the service of the notice where the notice is served upon the Government, a railway administration or a company and within fourteen days after such service in other cases" shall be substituted; and
(ii) after the words "measurements of the land", the words "and with such other information as the commissioner may require" shall be inserted.
- Substitution of new section for section 110, Madras Act IV of 1919. **63.** For section 110 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 110, Vol. III.*]
- Substitution of new section for section 111, Madras Act IV of 1919. **64.** For section 111 of the said Act, the following section shall be substituted, namely :—
[*Vide pp. 111–112, Vol. III.*]
- Substitution of new section for section 112, Madras Act IV of 1919. **65.** For section 112 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 112, Vol. III.*]
- Substitution of new section for section 113, Madras Act IV of 1919. **66.** For section 113 of the said Act, the following section shall be substituted, namely :—
[*Vide pp. 112–113, Vol. III.*]
- Insertion of new section 113-A in Madras Act IV of 1919. **67.** After section 113 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 113, Vol. III.*]
- Amendment of section 114, Madras Act IV of 1919. **68.** In section 114 of the said Act—
(i) for the words "persons occupying such building or land", the words "persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers" shall be substituted; and

(ii) after the words “ if any, paid by him ”, the words “ and the period of such occupation ” shall be added.

69. In clause (b) of section 115 of the said Act, for the words “ incorporated company ” the word “ company ” shall be substituted.

Amendment of section 115, Madras Act IV of 1919.

70. For sub-section (1) of section 116 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide p. 114, Vol. III.*]

Amendment of section 116, Madras Act IV of 1919.

71. In section 117 of the said Act, sub-sections (2) and (3) shall be renumbered (4) and (5) respectively and for the proviso to sub-section (1), the following sub-sections shall be substituted, namely :—

[*Vide p. 114, Vol. III.*]

Amendment of section 117, Madras Act IV of 1919.

72. In section 118 of the said Act—

(i) in clause (b), for the words “ town police ”, the words “ city police ” shall be substituted; and for the proviso the following proviso shall be substituted, namely :—

[*Vide p. 115, Vol. III.*]; and

(ii) clauses (f) and (g) shall be omitted.

Amendment of section 118, Madras Act IV of 1919.

73. After section 120 of the said Act, the following section shall be inserted, namely :—

[*Vide pp. 115-116, Vol. III.*]

Insertion of new section 120-A in Madras Act IV of 1919.

74. The proviso to sub-section (1) of section 122 of the said Act shall be omitted.

Amendment of section 122, Madras Act IV of 1919.

75. For sub-sections (1) and (2) of section 124 of the said Act, the following sub-sections shall be substituted, namely :—

[*Vide pp. 116-117, Vol. III.*]

Amendment of section 124, Madras Act IV of 1919.

76. In section 126 of the said Act, the words “ or let out for hire ” shall be omitted.

Amendment of section 126, Madras Act IV of 1919.

77. For section 129 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 118-119, Vol. III.*]

Substitution of new section for section 129, Madras Act IV of 1919.

- Insertion of new sections 129-A, 129-B, 129-C, 129-D, 129-E and 129-F in Madras Act IV of 1919.
- 78.** After section 129 of the said Act, the following heading and sections shall be inserted, namely :—
[*Vide pp. 119-122, Vol. III.*]
- Amendment of section 135, Madras Act IV of 1919.
- 79.** In section 135 of the said Act, after the words and figures “ Indian Stamp Act, 1899 ”, the words “ as in force for the time being in the Presidency of Madras ” shall be inserted.
- Amendment of section 136, Madras Act IV of 1919.
- 80.** In section 136 of the said Act,—
(i) in clause (a), for the words and figures “ Indian Stamp Act, 1899 ”, the words “ said Indian Stamp Act ” shall be substituted ; and
(ii) in clause (b), for the words and figures “ Indian Stamp Act, 1899 ”, the words “ same Act ” shall be substituted.
- Insertion of new sections 137-A and 137-B in Madras Act IV of 1919.
- 81.** After section 137 of the said Act, the following heading and sections shall be inserted, namely :—
[*Vide p. 123, Vol. III.*]
- Amendment of section 139, Madras Act IV of 1919.
- 82.** In section 139 of the said Act, after the words “ provisions of this Act ”, the words “ or other laws ” shall be added.
- Insertion of new section 141-A in Madras Act IV of 1919.
- 83.** After section 141 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 124, Vol. III.*]
- Amendment of section 142, Madras Act IV of 1919.
- 84.** (1) In sub-section (1) of section 142 of the said Act—
(i) in clause (b) for the word “ land ” the words “ lands and buildings ” shall be substituted ;
(ii) clauses (c) and (d) shall be re-lettered as (d) and (e) respectively and the following shall be inserted as clause (c), namely :—
[*Vide p. 125, Vol. III.*] ; and
(iii) for the proviso, the following proviso shall be substituted, namely :—
[*Vide p. 125, Vol. III.*]
- (2) In clause (b) of sub-section (2) of the same section, for the words, figure, letter and brackets “ no portion of any sum of money borrowed under sub-section (1), clause (a) ”, the words, letters, figure and brackets “ no portion of any sum of money borrowed under clause (a) or clause (c) of sub-section (1) ” shall be substituted.

85. In sub-section (2) of section 148 of the said Act, Amendment of section 148, Madras Act IV of 1919.
 (i) for the words “under the orders of the council”, the words “by the commissioner” shall be substituted, (ii) for clause (c) the following clause shall be substituted, namely, “(c) Madras, Calcutta, Bombay and Karachi municipal debentures” and (iii) at the end, the following sentence shall be added, namely :—

[*Vide p. 127, Vol. III.*]

86. In section 154 of the said Act, for the words “tenth day of December”, the words “fifteenth day of January” shall be substituted. Amendment of section 154, Madras Act IV of 1919.

87. In section 155 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

[*Vide p. 129, Vol. III.*]

(ii) in clause (b) of sub-section (2) for the words “one lakh of rupees”, the words “one lakh and fifty thousand rupees under General Account—Revenue” shall be substituted ; and

(iii) in sub-section (3), for the words “fifteenth day of January”, the words “fifteenth day of February” shall be substituted.

88. In section 156 of the said Act, for the words “some day in February”, the words “some day in the first week of March” shall be substituted. Amendment of section 156, Madras Act IV of 1919.

89. In section 159 of the said Act, after the words “estimated cash balance”, the words “under General Account—Revenue” shall be inserted and for the words “one lakh of rupees” at the end, the words “one lakh and fifty thousand rupees” shall be substituted. Amendment of section 159, Madras Act IV of 1919.

90. Section 160 of the said Act shall be omitted.

Repeal of section 160, Madras Act IV of 1919.

91. In sub-section (1) of section 162 of the said Act, for the words “one lakh of rupees” in both the places where they occur, the words “one lakh and fifty thousand rupees under General Account—Revenue” shall be substituted. Amendment of section 162, Madras Act IV of 1919.

92. In section 163 of the said Act, after the words “shall vest in the corporation”, the words “and be subject to its control” shall be added. Amendment of section 163, Madras Act IV of 1919.

93. Section 164 of the said Act shall be renumbered as sub-section (1) of section 164 and to that section the following sub-section shall be added, namely :—

[*Vide p. 132, Vol. III.*]

94. In section 169 of the said Act—

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

[*Vide p. 133, Vol. III.*]

Amendment of section 169, Madras Act IV of 1919.

(ii) in the Explanation, in clause (d) for the words " tanks in or near temples and churches and mosques " the words " or tanks " shall be substituted ; and for clause (e), the following clauses shall be substituted, namely :—

[*Vide p. 134, Vol. III.*] ; and

(iii) after clause (iii), at the end of the Explanation, the following word and clause shall be added, namely:—

[*Vide p. 134, Vol. III.*]

Amendment of section 170, Madras Act IV of 1919.

95. In sub-section (2) of section 170 of the said Act, after the words " by general or special order ", the words " and the amount shall be recoverable in the same manner as the property tax " shall be added.

Insertion of new section 171-A in Madras Act IV of 1919.

96. After section 171 of the said Act, the following heading and section shall be inserted, namely :—

[*Vide p. 135, Vol. III.*]

Amendment of section 172, Madras Act IV of 1919.

97. In section 172 of the said Act—

(i) in sub-section (1)—

(a) clauses (b), (c), (d), (e), (f) and (g) shall be relettered (d), (e), (f), (g), (h) and (i) respectively, and before clause (d) as so relettered, the following clauses shall be inserted, namely :—

[*Vide p. 136, Vol. III.*]

(b) in clause (d) as so relettered, for the words " thirty days ", the words " fifteen days " shall be substituted ; and

(c) at the end, the following proviso shall be added, namely :—

[*Vide p. 137, Vol. III.*]

(ii) sub-sections (2), (3) and (4) shall be renumbered as sub-sections (3), (4) and (5), respectively, and the following shall be inserted as sub-section (2) :—

[*Vide p. 137, Vol. III.*]

(iii) in sub-section (3) as renumbered, for the words " owner or occupier of the premises " the words " owner and occupier of the premises jointly and severally " shall be substituted ; and

(iv) in sub-section (4) as renumbered, for the expression " under clause (b) ", the expression " under clause (d) of sub-section (1) " shall be substituted.

Amendment of section 178, Madras Act IV of 1919.

98. In sub-section (3) of section 178 of the said Act, after the words " construct a closed cess-pool ", the words " or other sewage disposal plant " shall be inserted.

99. In sub-section (1) of section 179 of the said Act, after Amendment the words "as the standing committee may think fit", of section the words "and shall be recoverable in the same manner Act IV of 1919. as the property tax" shall be added.

100. In sub-section (2) of section 182 of the said Act, for Amendment the words "of the form and size and consist of such materials", 182, Madras of section the words "of such form and size and consist of such materials Act IV of 1919. and be provided with such means of ventilation" shall be substituted.

101. For section 186 of the said Act, the following section Substitution shall be substituted, namely :— of new section for section 186, Madras Act IV of 1919.
[*Vide p. 141, Vol. III.*]

102. In sections 187, 188 and 189 of the said Act, for Amendment the word "latrines", the words "flush-out or other latrines" 187, 188 and 189, Madras shall be substituted. Act IV of 1919.

103. In sub-section (2) of section 193, for the words "one Amendment thousand yards", the words "one mile" shall be substituted. of section 193, Madras Act IV of 1919.

104. For section 194 of the said Act, the following section Substitution shall be substituted, namely :— of new section for section 194, Madras Act IV of 1919.
[*Vide p. 143, Vol. III.*]

105. Sub-sections (5) and (6) of section 202 of the said Amendment Act shall be renumbered as sub-sections (4) and (5), respec- of section 202, Madras tively, and for sub-sections (3) and (4) of that section, the Act IV of 1919. following sub-section shall be substituted, namely :—

[*Vide p. 145, Vol. III.*]

106. After section 202 of the said Act, the following Insertion section shall be inserted, namely :— of new section 202-A in Madras Act IV of 1919.
[*Vide p. 146, Vol. III.*]

107. For section 203 of the said Act, the following section Substitution shall be substituted, namely :— of new section for section 203, Madras Act IV of 1919.
[*Vide pp. 146-147, Vol. III.*]

108. In section 205 of the said Act— Amendment of section 205, Madras Act IV of 1919.
(i) in clause (a) of sub-section (1), for the words "new streets", the words "new public streets" shall be substituted; and

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

[*Vide p. 147, Vol. III.*]

Insertion of new section 214-A in Madras Act IV of 1919.

109. After section 214 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 151, Vol. III.*]

Amendment of section 218, Madras Act IV of 1919.

110. In section 218 of the said Act—

(i) in sub-section (1), for the words “ require the owners or occupiers of premises fronting or abutting on such street or part thereof ”, the words “ require the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part including in cases where the owners of the land and of the building thereon are different, the owners both of the land and of the building ” shall be substituted ; and

(ii) in sub-section (2), for the words “ owners or occupiers in default according to the frontage of their respective premises and in such proportion as may be settled by the commissioner ”, the words, figure and brackets “ owners referred to in sub-section (1) in such proportions as may be settled by the commissioner ” shall be substituted.

Amendment of section 219, Madras Act IV of 1919.

111. In section 219 of the said Act, for the words “ not less than three-fourths of the owners thereof ”, the words, figure and brackets “ a majority of the owners referred to in sub-section (1) of that section ” shall be substituted.

Amendment of section 220, Madras Act IV of 1919.

112. In section 220 of the said Act—

(i) for the words “ obstruction, encroachment or projection ”, the words “ obstruction or projection or make any encroachment ” shall be substituted ; and

(ii) after the words “ any street ”, the words “ or any public place the control of which is vested in the corporation ” shall be inserted.

Amendment of section 222, Madras Act IV of 1919.

113. In section 222 of the said Act—

(i) in sub-section (1), after the words “ any street ”, the words “ or any public place the control of which is vested in the corporation ” shall be added ; and

(ii) in sub-section (2), after the words “ period sufficient under the law of limitation to give him a prescriptive title ”, the words “ or where such period is less than thirty years, for a period of thirty years ” shall be inserted.

114. For section 223 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 154, Vol. III.*]

Substitution
of new
section for
section 223,
Madras Act
IV of 1919.

115. In sub-section (3) of section 224 of the said Act, for the words “complete the said work, fill in the ground, and repair the said drain, street or premises.” the words “cause the said work to be completed, the ground to be filled in, the said drain, street or premises to be repaired and the rubbish occasioned thereby to be removed.” shall be substituted.

Amendment
of section
224, Madras
Act IV of
1919.

116. In sub-section (3) of section 226 of the said Act, for the words “by notice”, the words “by written order” shall be substituted.

Amendment
of section
226, Madras
Act IV of
1919.

117. In section 228 of the said Act—

(i) in sub-section (1), for the words “give names” the words “give names or numbers” and for the words “alter the name of any public street” the words “subject to the approval of the ¹ [Provincial Government], alter the name, or number of any public street” shall be substituted; and

(ii) in sub-sections (2) and (3) after the word “name” wherever it occurs, the words “or number” shall be inserted.

Amendment
of section
228, Madras
Act IV of
1919.

118. For section 233 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 158-159, Vol. III.*]

Substitution
of new
section for
section 233,
Madras Act
IV of 1919.

119. To sub-section (1) of section 234 of the said Act, the following Explanation shall be added, namely :—

[*Vide p. 159, Vol. III.*]

Amendment
of section
234, Madras
Act IV of
1919.

120. In sub-section (2) of section 239 of the said Act, for the words “standing committee do not, within fifteen days” the words “standing committee does not, within one month” shall be substituted.

Amendment
of section
239, Madras
Act IV of
1919.

121. In section 240 of the said Act, after clause (5), the following clauses shall be inserted, namely :—

[*Vide pp. 160-161, Vol. III.*]

Amendment
of section
240, Madras
Act IV of
1919.

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

in a filthy or unwholesome state or overgrown with any thick or noxious vegetation, trees or undergrowth injurious to health or offensive to the neighbourhood ” shall be substituted ; and

- (ii) for the words “ otherwise put the same in proper state ”, the words “ otherwise put the building or land in proper state or to clear away and remove such vegetation, trees or undergrowth ” shall be substituted.

132. After section 270 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 183, Vol. III.*]

Insertion of new section 270-A in Madras Act IV of 1919.

133. In sub-section (3) of section 273 of the said Act, for the words “ in proportion to the increased value acquired by their own property ” the words “ in such proportion to the increased value acquired by their respective buildings as may be determined by the commissioner ” shall be substituted.

Amendment of section 273, Madras Act IV of 1919.

134. In section 278 of the said Act, for the words “ Governor-General in Council ”, the words “ ¹[Central Government] ” and for the words “ the Government ” in ² both places where they occur, the words “ such Government ” shall be substituted.

Amendment of section 278, Madras Act IV of 1919.

135. For section 279 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 187, Vol. III.*]

Substitution of new section for section 279, Madras Act IV of 1919.

136. In the heading to section 280 of the said Act, the words “ and birds ” shall be added after the word “ animals ” and in clause (b) of that section after the word “ animal ” the words “ or bird ” shall be inserted.

Amendment of section 280, Madras Act IV of 1919.

137. In section 282 of the said Act—

- (i) to sub-section (2), the following proviso shall be added, namely :—

[*Vide p. 188, Vol. III.*]; and

- (ii) in sub-section (3), after the words “ use any place ”, the words “ or allow any place to be used ” shall be inserted.

Amendment of section 282, Madras Act IV of 1919.

138. For section 285 of the said Act, the following heading and sections shall be substituted, namely :—

[*Vide pp. 188–190, Vol. III.*]

Substitution of new sections for section 285, Madras Act IV of 1919.

¹ These words were substituted for the words “ Government of India ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For the words “ such Government ” substituted in the second place, the words “ the Crown ” were substituted by paragraph 6, *ibid*

Insertion of new heading before section 286, Madras Act IV of 1919. **139.** Before section 286 of the said Act, the following heading shall be inserted, namely :—

“ *Carcasses of animals.* ”

Substitution of new sections for sections 287, 288, 289 and 290, Madras Act IV of 1919. **140.** For sections 287, 288, 289 and 290 and the heading to section 290 of the said Act, the following sections shall be substituted, namely :—

[*Vide pp. 191–195, Vol. III.*]

Amendment of section 292, Madras Act IV of 1919. **141.** In section 292 of the said Act—

(i) in sub-section (1)—

(a) before the words “public wash-houses” and “wash-house”, respectively, the words “public bathing houses and ” and “bathing-house” shall be inserted ;

(b) for the words “require the payment of such rents and fees”, the words “charge and levy such rents and fees” shall be substituted ; and

(c) the following sentence shall be added at the end, namely :—

[*Vide p. 196, Vol. III.*] ; and

(ii) after sub-section (3), the following sub-section shall be added, namely :—

[*Vide p. 196, Vol. III.*]

Amendment of section 294, Madras Act IV of 1919. **142.** In sub-section (1) of section 294 of the said Act, for the words “the commissioner, with the approval of the standing committee, may charge such rents and fees for their use as he may think fit.” the words “the commissioner may charge and levy such rents and fees for their use as the standing committee may determine. Such rents and fees shall be recoverable in the same manner as the property tax.” shall be substituted.

Amendment of section 295, Madras Act IV of 1919. **143.** For sub-section (1) of section 295 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide p. 197, Vol. III.*]

Amendment of section 297, Madras Act IV of 1919. **144.** In section 297 of the said Act, after the words “within the city”, the words “except in a municipal or licensed slaughter-house” shall be inserted.

Amendment of section 299, Madras Act IV of 1919. **145.** In section 299 of the said Act—

(i) in clause (a) of sub-section (1), for the words “carry on within the city” the words “carry on or be employed in” shall be substituted and the words “within the city” shall be added at the end ;

(ii) to sub-section (1), the following provisos shall be added, namely :—

[*Vide p. 198, Vol. III.*] ; and

(iii) in sub-section (2), for the words "upon conditions laid down by the commissioner." the following shall be substituted, namely :—

[*Vide p. 198, Vol. III.*]

146. In section 300 of the said Act, before the word "constructed," the word "acquired" shall be inserted.

Amendment of section 300, Madras Act IV of 1919.

147. For sub-section (2) of section 301 of the said Act, the following sub-sections shall be substituted, namely :—

[*Vide pp. 198-199, Vol. III.*]

Amendment of section 301, Madras Act IV of 1919.

148. For section 302 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 199, Vol. III.*]

Substitution of new section for section 302, Madras Act IV of 1919.

149. For sub-section (2) of section 303 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide pp. 199-200, Vol. III.*]

Amendment of section 303, Madras Act IV of 1919.

150. In section 304 of the said Act—

(i) in sub-section (1), for the words "in the first month of every year." the words "not less than thirty days before the commencement of the year for which licence is sought." shall be substituted ; and

Amendment of section 304, Madras Act IV of 1919.

(ii) in sub-section (2), for the words "subject to such restrictions and regulations" the words "subject to such regulations as to supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used and rents and fees to be charged in such markets" shall be substituted.

151. After section 304 of the said Act, the following sections shall be inserted, namely :—

[*Vide pp. 200-201, Vol. III.*]

Insertion of new sections 304-A and 304-B in Madras Act IV of 1919.

152. In section 306 of the said Act—

(i) in clause (a), after the word "latrines", the words "of such description and in such position and number as the commissioner may think fit" shall be inserted ;

Amendment of section 306, Madras Act IV of 1919.

(ii) in clause (c), after the word "ventilate" the words "and light" shall be inserted ; and

(iii) in clause (d), after the word "stalls" the words "and make such alterations in the stalls, passages, shops, doors or other parts of the market as the commissioner may direct" shall be inserted.

Insertion of new sections 308-A and 308-B in Madras Act IV of 1919.

153. After section 308 of the said Act, the following sections shall be inserted, namely :—
[*Vide p. 202, Vol. III.*]

Amendment of section 309, Madras Act IV of 1919.

154. (1) Section 309 of the said Act shall be renumbered as sub-section (1) of section 309 and in that section as so renumbered—

(i) for the words “flesh or fish intended for human food”, the following shall be substituted, namely :—
[*Vide p. 203, Vol. III.*]; and

(ii) after the existing proviso, the following proviso shall be added, namely :—
[*Vide p. 203, Vol. III.*]

(2) To the same section, the following sub-sections shall be added, namely :—
[*Vide p. 203, Vol. III.*]

Amendment of section 310, Madras Act IV of 1919.

155. In section 310 of the said Act, for the word “articles”, the words “animal, bird or article” shall be substituted.

Insertion of new section 310-A in Madras Act IV of 1919.

156. After section 310 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 203, Vol. III.*]

Substitution of new section for section 314, Madras Act IV of 1919.

157. For section 314 of the said Act, the following section shall be substituted, namely :—
[*Vide pp. 204-205, Vol. III.*]

Amendment of section 316, Madras Act IV of 1919.

158. In sub-section (1) of section 316 of the said Act—
(i) after the words “or other article of food” the words “or any utensil or vessel” shall be inserted; and
(ii) the words “in such manner as to prevent its being used for human food or exposed for sale” shall be omitted.

Amendment of section 320, Madras Act IV of 1919.

159. In sub-section (1) of section 320 of the said Act—
(i) before the words “without the limits of the city”, the words “with the sanction of the ¹[Provincial Government]” shall be inserted; and
(ii) for the words “charge rents and fees”, the words “charge and levy rents and fees” shall be substituted.

¹ These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

160. In section 324 of the said Act, for clause (a) of sub-section (1), the following clause shall be substituted, namely :—
 [Vide p. 207, Vol. III.]
161. For section 325 of the said Act, the following section shall be substituted, namely :—
 [Vide pp. 207–208, Vol. III.]
162. After section 325 of the said Act, the following section shall be inserted, namely :—
 [Vide p. 208, Vol. III.]
163. In sub-section (2) of section 327 of the said Act, for the words “Such registration”, the words “Information of births and deaths shall be given and their registration” shall be substituted.
164. Section 328 of the said Act shall be omitted.
165. In section 331 of the said Act—
 (i) after the word “commissioner”, the words “or health officer” shall be inserted; and
 (ii) for the words “and take such measures”, the words “and except in cases where he is satisfied that adequate arrangements have been made or exist for the proper care and treatment of the person who is suffering or is suspected to be suffering from any dangerous disease, remove or cause to be removed such person to any Government or municipal medical institution intended for the treatment of patients suffering from such disease, and take such other measures” shall be substituted.
166. In sub-section (1) of section 333 of the said Act, after the words “appears to the health officer or assistant health officer”, the words and figures “whether on a certificate signed by a medical practitioner registered under the Madras Medical Registration Act, 1914, or otherwise” shall be inserted.
167. In sub-sections (1) and (3) of section 334 of the said Act, after the word “commissioner” wherever it occurs, the words “or health officer” shall be inserted.
168. In section 336 of the said Act—
 (i) after the word “infection” wherever it occurs, the words “from any dangerous disease” shall be inserted;

Amendment of section 324, Madras Act IV of 1919.

Substitution of new section for section 325, Madras Act IV of 1919.

Insertion of new section 325-A in Madras Act IV of 1919.

Amendment of section 327, Madras Act IV of 1919.

Repeal of section 328, Madras Act IV of 1919.

Amendment of section 331, Madras Act IV of 1919.

Amendment of section 333, Madras Act IV of 1919.

Amendment of section 334, Madras Act IV of 1919.

Amendment of section 336, Madras Act IV of 1919.

- (ii) in sub-section (2), for the words " may notify places ", the words " shall from time to time notify places " shall be substituted ; and
- (iii) in the same sub-section, after the word " washed ", the words " and disinfected " and after the word " wash ", the words " or disinfect " shall be inserted.

Insertion of new section 337-A in Madras Act IV of 1919.

169. After section 337 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 212, Vol. III.*]

Amendment of section 343, Madras Act IV of 1919.

170. In sub-section (1) of section 343 of the said Act, for the words " If any person knows that he is suffering from an infectious disease he shall not take any book ", the words " No person who is suffering from an infectious disease shall take any book " shall be substituted.

Insertion of new section 343-A in Madras Act IV of 1919.

171. After section 343 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 214, Vol. III.*]

Substitution of new section for section 344, Madras Act IV of 1919.

172. For section 344 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 214, Vol. III.*]

Amendment of section 347, Madras Act IV of 1919.

173. In section 347 of the said Act—

- (i) in sub-section (2), for clauses (b) to (d), the following clauses shall be substituted, namely :—

[*Vide p. 215, Vol. III.*]

- (ii) in sub-section (3), for the words and figures " any part of Schedule III, or Schedule VI or parts II to IV of Schedule V ", the words and figures " any of the Schedules to this Act except Schedules I, VII and VIII " shall be substituted ; and

- (iii) sub-section (5) shall be renumbered (6) and the following sub-section shall be inserted as sub-section (5), namely :—

[*Vide p. 216, Vol. III.*]

Amendment of section 349, Madras Act IV of 1919.

174. In section 349 of the said Act—

- (i) clause (1) shall be renumbered as (1-A) and the following shall be inserted as clause (1), namely :—

[*Vide p. 217, Vol. III.*]

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

[*Vide p. 217, Vol. III.*]

- (iii) in sub-clause (d) of clause (3), for the word " conditions " the words " terms and conditions " shall be substituted ;

(iv) in clause (11) after the word “regulation” the words “and licensing”, and after the words “for the consumption of any food or drink”, the words “or any place where any food or drink is exposed for sale” shall be inserted;

(v) after clause (12), the following clause shall be inserted, namely :—

[*Vide p. 219, Vol. III.*]

(vi) in clause (13), before the words “places used”, the words “factories and” shall be inserted;

(vii) in clause (16), after the words “milk product”, the words “and for enforcing the cleanliness of persons employed in the milk trade” shall be inserted;

(viii) in clause (18), after sub-clause (b), the following shall be added, namely :—

[*Vide p. 219, Vol. III.*]

(ix) for clause (24), the following clause shall be substituted, namely :—

[*Vide p. 220, Vol. III.*]

(x) in clause (26), after the word “vaccination”, the words “or revaccination” shall be inserted; and

(xi) in clause (28), the words “in public streets or parks” shall be omitted.

175. In section 353 of the said Act—

(i) in clause (a) for the words “draft of the by-law”, the words “draft of the proposed by-law” shall be substituted; and

(ii) in clause (b), after the words “publication thereof”, the words “in the ¹[Official Gazette]” shall be inserted.

Amendment of section 353, Madras Act IV of 1919.

176. After section 353 of the said Act, the following heading and section shall be inserted, namely :—

[*Vide pp. 221–222, Vol. III.*]

Insertion of new section 353-A in Madras Act IV of 1919.

177. For sub-section (1) of section 354 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide p. 222, Vol. III.*]

Amendment of section 354, Madras Act IV of 1919.

178. For section 358 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 224, Vol. III.*]

Substitution of new section for section 358, Madras Act IV of 1919.

¹ These words were substituted for the words “*Fort St. George Gazette*” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Insertion of
now section
364-A in
Madras Act
IV of 1919.
Amendment
of section
365, Madras
Act IV of
1919.

179. After section 364 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 226, Vol. III.*]

180. In section 365 of the said Act—

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

[*Vide pp. 226-227, Vol. III.*]

(ii) in sub-section (3), for the words “order of the commissioner refusing to grant a licence or permission”, the words “order of the commissioner or other municipal authority refusing, suspending, cancelling or modifying a licence or permission shall be in writing and” shall be substituted ;

(iii) in sub-section (4), for the words and figures “provisions regarding building in Chapter X and private markets in Chapter XII”, the words, figures and letter “provisions in Chapters X, X-A and XII regarding buildings, cheris and hutting grounds and private markets” shall be substituted, and the words “and to such appeal as may be provided in case of refusal” shall be omitted ;

(iv) in sub-section (5), after the words “any lawful direction”, the words “or prohibition” and after the words “damage or inconvenience”, the word “necessarily” shall be inserted ;

(v) in sub-section (6), the word “commissioner’s” and the words “by him” shall be omitted ;

(vi) in sub-section (8), for the words “or registration”, the words “or to make a registration” shall be substituted, and after the words “for registration” at the end, the words “and may in his discretion also recover summarily and pay over to the council such amount, if any, as he may fix as the costs of the prosecution” shall be inserted ; and

(vii) in sub-section (9), after the words “shall not”, the words “by itself” shall be inserted.

Amendment
of section
366, Madras
Act IV of
1919.

181. In section 366 of the said Act—

(i) in sub-section (1)—

(a) in sub-clause (i) of clause (a) before the figures “178” the figures and letter “129-E” shall be inserted ;

(b) in clause (c) before the figures “181” the figures and letter “129-B” shall be inserted and for the figures and brackets “288 (2)”, the figures and brackets “288 (3)” shall be substituted ;
and

(c) in clause (d), the figures “290” shall be omitted ;
and

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

[*Vide p. 230, Vol. III.*]

182. For section 367 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 230, Vol. III.*]

Substitution of new section for section 367, Madras Act IV of 1919.

183. The heading to section 368 of the said Act shall be omitted and before the said section, the following heading and section shall be inserted, namely :—

[*Vide p. 230, Vol. III.*]

Insertion of new section 367-A in Madras Act IV of 1919.

184. In section 371 of the said Act—

(i) in sub-section (1), after the word “summons” the word “warrant” shall be inserted ; and

(ii) in sub-section (2) for the words “any contract” the words “any deed of contract” shall be substituted.

Amendment of section 371, Madras Act IV of 1919.

185. After section 371 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 231, Vol. III.*]

Insertion of new section 371-A in Madras Act IV of 1919.

186. For section 372 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 232, Vol. III.*]

Substitution of new section for section 372, Madras Act IV of 1919.

187. After section 373 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 232, Vol. III.*]

Insertion of new section 373-A in Madras Act IV of 1919.

188. In section 374 of the said Act—

(i) in clause (b) of sub-section (1), for the words “to some adult member or servant”, the words “to his agent, clerk or servant or some adult member” shall be substituted ; and

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

[*Vide p. 233, Vol. III.*]

Amendment of section 374, Madras Act IV of 1919.

189. In section 375 of the said Act, for the words “If any rent, tax, or sum leviable under this Act from the owner is recovered from the occupier”, the words “If the occupier of any building or land makes on behalf of the owner thereof any payment for which under this Act, the owner, but not the occupier, is liable” shall be substituted.

Amendment of section 375, Madras Act IV of 1919.

- Amendment of section 376, Madras Act IV of 1919. **190.** In sub-section (2) of section 376 of the said Act, after the words " by reason of default", the words " in executing such works " shall be added.
- Amendment of heading before section 378, Madras Act IV of 1919. **191.** In the heading before section 378 of the said Act, after the word " entry ", the words " and inspection " shall be inserted.
- Amendment of section 378, Madras Act IV of 1919. **192.** In section 378 of the said Act—
 (i) after the word " commissioner ", the words " or any person authorized by him in this behalf " shall be inserted ;
 (ii) before the words " placing or removing meters," the word " lawfully " shall be inserted ; and
 (iii) in clause (b) of the proviso, for the words " no public building or hut ", the words " no part of a public building or hut " shall be substituted.
- Amendment of section 379, Madras Act IV of 1919. **193.** In section 379 of the said Act—
 (i) in sub-section (1), after the word " commissioner ", the words " or any person authorized by him in this behalf " shall be inserted ;
 (ii) in sub-sections (2) and (3), after the word " commissioner ", the words " or such authorized person " shall be inserted ; and
 (iii) in sub-section (3), for the words " and shall pay compensation ", the words " the commissioner shall pay compensation " shall be substituted.
- Insertion of new section 379-A in Madras Act IV of 1919. **194.** After section 379 of the said Act, the following heading and section shall be inserted, namely :—
 [*Vide pp. 235-236, Vol. III.*]
- Amendment of section 380, Madras Act IV of 1919. **195.** In section 380 of the said Act, after sub-section (2), the following sub-section shall be added, namely :—
 [*Vide p. 236, Vol. III.*]
- Amendment of section 381, Madras Act IV of 1919. **196.** In section 381 of the said Act, sub-section (5) shall be renumbered (4) and for sub-sections (1), (2), (3) and (4), the following sub-sections shall be substituted, namely :—
 [*Vide pp. 236-237, Vol. III.*]
- Amendment of section 383, Madras Act IV of 1919. **197.** In section 383 of the said Act, for clause (a), the following clause shall be substituted, namely :—
 [*Vide p. 237, Vol. III.*]

198. For section 387 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 238–239, Vol. III.*]

Substitution of new section for section 387, Madras Act IV of 1919.

199. For section 388 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 239, Vol. III.*]

Substitution of new section for section 388, Madras Act IV of 1919.

200. For section 390 of the said Act, the following section shall be substituted, namely :—

[*Vide p. 239, Vol. III.*]

Substitution of new section for section 390, Madras Act IV of 1919.

201. After section 390 of the said Act, the following sections shall be inserted, namely :—

[*Vide pp. 239–240, Vol. III.*]

Insertion of new sections 390-A and 390-B in Madras Act IV of 1919.

202. Section 391 of the said Act shall be omitted.

Repeal of section 391, Madras Act IV of 1919.

203. In section 392 of the said Act—

(i) the figure and brackets “(1)” occurring at the commencement shall be omitted ;

(ii) for the words “before a magistrate within six months after the commission of the offence” the words “within six months from the commission of the offence, by the police or the commissioner or by a person authorized in this behalf by the council or the standing committee or the commissioner” shall be substituted ; and

(iii) in the proviso, for the word, figure and brackets “sub-section (1)”, the words “this section” shall be substituted.

Amendment of section 392, Madras Act IV of 1919.

204. In section 394 of the said Act—

(i) in sub-section (1) after the word “costs”, the word “tax” shall be inserted and for the words “imposed or assessed”, the words “imposed, assessed or recoverable” shall be substituted ; and

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

[*Vide p. 241, Vol. III.*]

Amendment of section 394, Madras Act IV of 1919.

- Amendment of section 398, Madras Act IV of 1919.** **205.** In section 398 of the said Act, for the words and figures "Subject to the provisions of section 69, the commissioner may", the words "The commissioner may" shall be substituted.
- Amendment of section 399, Madras Act IV of 1919.** **206.** In section 399 of the said Act, before the words "any municipal authority" in both the places where they occur, the words "the ¹ [Provincial Government] or" shall be inserted.
- Amendment of section 400, Madras Act IV of 1919.** **207.** In section 400 of the said Act, after the words "and every councillor" insert the words "or alderman".
- Insertion of new section 400-A in Madras Act IV of 1919.** **208.** After section 400 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 244, Vol. III.*]
- Substitution of new section for section 401, Madras Act IV of 1919.** **209.** For section 401 of the said Act, the following section shall be substituted, namely :—
[*Vide pp. 244–245, Vol. III.*]
- Substitution of new section for section 404, Madras Act IV of 1919.** **210.** For section 404 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 245, Vol. III.*]
- Amendment of section 405, Madras Act IV of 1919.** **211.** In section 405 of the said Act, for the words "or fee" in the first place where they occur, the words "fee, or other sum due to the corporation" and for the words "or fee" in the second place where they occur, the words "fee or sum" shall be substituted.
- Amendment of section 406, Madras Act IV of 1919.** **212.** In section 406 of the said Act,—
(i) before the words "any person", the words "the council, any standing committee, the Mayor or Deputy Mayor, any councillor or alderman, the commissioner or any person employed by the corporation or" shall be inserted ; and
(ii) for the words "his duty", the words "their duty" and for the words "he is empowered", the words "they are empowered" shall be substituted.
- Amendment of section 408, Madras Act IV of 1919.** **213.** In section 408 of the said Act, for the word "corporation", the words "council, a standing committee or the commissioner" shall be substituted.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

214. The proviso to section 412 of the said Act shall be omitted.

Amendment of section 412, Madras Act IV of 1919.

215. After section 412 of the said Act, the following sections shall be inserted, namely :—

Insertion of new sections 413 and 414 in Madras Act IV of 1919.

[*Vide pp. 247-249, Vol. III.*]

216. In Schedule II to the said Act—

Amendment of Schedule II, Madras Act IV of 1919.

(i) for rules 1 and 2, the following rules shall be substituted, namely :—

[*Vide pp. 249-250, Vol. III.*]

(ii) rules 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall be renumbered 4, 5, 6, 7, 8, 11, 12, 14, 15, 16, 17, 18, 19 and 20 respectively ;

(iii) in rule 4 as so renumbered, for the words “ each of the general meetings held in the months ”, the words “ an ordinary meeting held in each of the months ” shall be substituted ;

(iv) in rule 5 as so renumbered—

(a) for sub-rule (1), the following sub-rule shall be substituted, namely :—

[*Vide p. 250, Vol. III*]; and

(b) in sub-rule (2), for the word ‘ councillor ’ the word ‘ member ’ and for the word ‘ publication ’, the word ‘ advertisement ’ shall be substituted ;

(v) in rule 6 as so renumbered, for the words “ office of Mayor is vacant ”, the words “ offices of Mayor and Deputy Mayor are vacant ” and for the words and figures “ rules 1 to 4 above ”, the words and figures “ rules 2 to 5 ” shall be substituted ;

(vi) for rules 7 and 8 as so renumbered, the following rules shall be substituted, namely :—

[*Vide p. 251, Vol. III.*]

(vii) in sub-rule (1) of rule 11 as so renumbered, after the word “ Mayor,” the words “ Deputy Mayor or presiding member ” shall be inserted ;

(viii) in sub-rule (2) of rule 12 as so renumbered—

(a) for the words “ half the whole number of councillors ”, the words “ thirty members ” and for the word “ councillors ” in the second and third places where it occurs, the word “ members ” shall be substituted ; and

(b) the following sentence shall be added at the end, namely :—

[*Vide p. 252, Vol. III.*]

(ix) after rule 12 as so renumbered, the following rule shall be inserted, namely :—

[*Vide p. 252, Vol. III*]; and

(x) for rules 17 and 18 as so renumbered, the following rules shall be substituted, namely :—

[*Vide pp. 252–253, Vol. III.*]

Substitution
of new
Parts I and
I-A for Part
I of Schedule
IV, Madras
Act IV of
1919.

217. For Part I of Schedule IV to the said Act (herein-
after referred to as the said Schedule IV) the following part
shall be substituted, namely :—

[*Vide pp. 253–256, Vol. III.*]

Substitution
of new rule
for rule 7 of
Schedule IV,
Madras Act
IV of 1919.

218. For rule 7 of the said Schedule IV, the following
rule shall be substituted, namely :—

[*Vide p. 257, Vol. III.*]

Amendment
of rule 8 of
Schedule IV,
Madras Act
IV of 1919.

219. In rule 8 of the said Schedule IV—

(i) the heading “ Tax on Persons Holding appointments
or Exercising Professions, Arts, Trades and Callings ”
shall be omitted ; and

(ii) in item (2) under the heading “ Class I ”, for the
words “ exercising any profession, trade, art or calling ”,
the words “ exercising any profession, art or calling
or transacting business ” shall be substituted.

Amendment
of rule 9 of
Schedule IV,
Madras Act
IV of 1919.

220. In sub-rule (1) of rule 9 of the said Schedule IV,
for the words “ from the exercise of his profession, art, trade
or calling ” the words “ from the exercise of his profession,
art or calling or the transaction of his business ” shall be
substituted.

Amendment
of rule 10 of
Schedule IV,
Madras Act
IV of 1919.

221. In sub-rule (1) of rule 10 of the said Schedule IV,
before the words ‘ ass or dog ’, in the last item, the words
“ pig, goat ” shall be inserted.

Amendment
of rule 12
of Schedule
IV, Madras
Act IV of
1919.

222. In rule 12 of the said Schedule IV, before the
words “ the transfer duty ”, the words “ the property tax ”
shall be inserted.

Substitution
of new rules
for rules 13
and 14 of
Schedule IV,
Madras Act
IV of 1919.

223. For rules 13 and 14 of the said Schedule IV, the follow-
ing rules shall be substituted, namely :—

[*Vide pp. 261–262, Vol. III.*]

- 224.** In rule 15 of the said Schedule IV—
 (i) in sub-rule (a), for the words “standing committee”, the words and figures “Taxation Appeals Committee constituted under rule 14” shall be substituted; and
 (ii) after sub-rule (d), the following sub-rule shall be added, namely :—
 [Vide p. 263, Vol. III.]
- 225.** For sub-rule (c) of rule 18 and rule 19 of the said Schedule IV, the following rules shall be substituted, namely :—
 [Vide pp. 263–264, Vol. III.]
- 226.** For rules 20, 21 and 22 of the said Schedule IV, the following rules shall be substituted, namely :—
 [Vide pp. 264–265, Vol. III.]
- 227.** For rule 24 of the said Schedule IV, the following rule shall be substituted, namely :—
 [Vide pp. 265–266, Vol. III.]
- 228.** In rule 25 of the said Schedule IV, for the words “proportionate in value to the sum”, the words “equal in value to the tax” shall be substituted.
- 229.** For rules 26 and 27 of the said Schedule IV, the following rules shall be substituted, namely :—
 [Vide pp. 266–267, Vol. III.]
- 230.** For rule 29 of the said Schedule IV, the following rules shall be substituted, namely :—
 [Vide pp. 268–269, Vol. III.]
- 231.** In rule 30 of the said Schedule IV, for the words, letters and brackets “(a) the water and drainage tax, and (b) the lighting tax”, the following shall be substituted, namely :—
 [Vide p. 269, Vol. III.]
- 232.** In rule 31 of the said Schedule IV, for the words and figures “For the purposes of Parts V and VI of these rules”, the words “In these rules” shall be substituted.

Amendment of rule 15 of Schedule IV, Madras Act IV of 1919.

Substitution of new rules for rules 18 (c) and 19 of Schedule IV, Madras Act IV of 1919.

Substitution of new rules for rules 20, 21 and 22 of Schedule IV, Madras Act IV of 1919.

Substitution of new rule for rule 24 of Schedule IV, Madras Act IV of 1919.

Amendment of rule 25 of Schedule IV, Madras Act IV of 1919.

Substitution of new rules for rules 26 and 27 of Schedule IV, Madras Act IV of 1919.

Substitution of new rules for rule 29 of Schedule IV, Madras Act IV of 1919.

Amendment of rule 30 of Schedule IV, Madras Act IV of 1919.

Amendment of rule 31 of Schedule IV, Madras Act IV of 1919.

Substitution of new rule for rule 1 of Schedule V, Madras Act IV of 1919. **233.** For rule 1 of Schedule V to this Act (hereinafter referred to as the said Schedule V), the following rule shall be substituted, namely :—
[*Vide p. 270, Vol. III.*]

Amendment of rule 3 of Schedule V, Madras Act IV of 1919.

234. In rule 3 of the said Schedule V—

- (i) in clause (a)—
 - (a) after the words “training of health officers,” the words “medical practitioners” shall be inserted;
 - (b) between the words “the training of” and the word “nurses” the words “midwives and” shall be inserted; and
 - (c) after the words “at the houses of such persons” the words “the provision of health visitors, midwives and dhais for attendance on maternity cases” shall be inserted;
- (ii) in clause (b)—
 - (a) after the word “slaughter-houses;” the words “of shops, stalls and plinths;” shall be inserted;
 - (b) after the words “sewage farms” the words “and all works for the removal or disposal of sewage” shall be inserted; and
 - (c) the words “and other works for the removal of sewage” after the words “of tramways” shall be omitted; and
- (iii) in clause (d), after the words “crematoria” the words “improvement of burial and burning grounds and crematoria”, and after the words “the acquisition of congested areas and the provision of new sites”, the words “whether within or without municipal limits” shall be inserted.

Amendment of rule 4 of Schedule V, Madras Act IV of 1919.

235. In rule 4 of the said Schedule V—

- (i) in clause (a), after the words “construction of model dwellings” the words “and the encouragement of co-operative building societies by loans, grants of land or prizes” shall be inserted;
- (ii) in clause (c), for the words “other industrial concerns” the words “other agricultural, industrial or trading concerns” shall be substituted;
- (iii) in clause (p), after the words “poor houses,” the words “homes or settlements for beggars, work-houses, infirmaries and children’s homes,” shall be inserted;
- (iv) in clause (q), after the words “health associations”, the words “and the provision and organization of health propaganla work in slums and other areas” shall be added.

(v) in clause (r)—

(a) after the words “ organization and maintenance of ” the words “ maternity and child welfare centres and ” shall be inserted ; and

(b) at the end, the words “ and training of health visitors ” shall be added ; and

(vi) after clause (r), the following clause shall be added, namely :—

[*Vide p. 273, Vol. III.*]

236. In rule 5 of the said Schedule V—

(i) in clause (b), after the words “ hospital or institute ” the words “ including the Pasteur Institute, Coonoor ” shall be inserted ; and

(ii) for clause (e), the following clause shall be substituted, namely :—

[*Vide p. 274, Vol. III.*]

Amendment
of rule 5 of
Schedule V,
Madras Act
IV of 1919.

237. Rule 7 of the said Schedule V shall be omitted.

Repeal of
rule 7 of
Schedule V,
Madras Act
IV of 1919.

238. Rule 12 of the said Schedule V shall be renumbered as sub-rule (1) of rule 12 and to the rule as so renumbered, the following sub-rule shall be added, namely :—

[*Vide p. 276, Vol. III.*]

Amendment
of rule 12 of
Schedule V,
Madras Act
IV of 1919.

239. Rule 20 of the said Schedule V shall be renumbered as sub-rule (1) of rule 20 and to the rule as so renumbered, the following sub-rule shall be added, namely :—

[*Vide p. 278, Vol. III.*]

Amendment
of rule 20 of
Schedule V,
Madras Act
IV of 1919.

240. In rule 21 of the said Schedule V—

(i) in sub-rule (1), for the word “ authorizing ” the words “ authorizing the making of ” shall be substituted ;

(ii) in sub-rule (2), after the word “ furnish ” the words “ by registered post ” shall be inserted ; and

(iii) after sub-rule (2), the following sub-rule shall be added, namely :—

[*Vide p. 278, Vol. III.*]

Amendment
of rule 21 of
Schedule V,
Madras Act
IV of 1919.

241. In rule 23 of the said Schedule V, after the words “ on an application ” the words “ made by the commissioner ” shall be inserted.

Amendment
of rule 23 of
Schedule V,
Madras Act
IV of 1919.

242. For Schedule VI to the said Act, the following Schedule shall be substituted, namely :—

[*Vide pp. 279-283, Vol. III.*]

Substitution
of new
Schedule for
Schedule VI,
Madras Act
IV of 1919.

Amendment
of Schedule
VII, Madras
Act IV of
1919.

243. In Schedule VII to the said Act—

- (i) in the items relating to sections 120, 122, 169, 178, 180, 182, 183, 186, 188, 195 (1), (2) and (3), 196, 218, 258, 259, 260, 261, 262 (3), 263, 264 (1), 265, 269, 270, 271, 272, 273, 274 (4), 275 (4), 306, 334, 368 and 376 (1) and Schedule V, rule 18, for the word ' obey ' the words ' comply with ' shall be substituted ;
- (ii) before the item relating to section 106, the following item shall be inserted, namely :—
[*Vide p. 284, Vol. III.*]
- (iii) in the item relating to section 107, in the second sub-column of the first column, the figure and brackets " (1) " shall be inserted ;
- (iv) in the item relating to section 114, in column 2, for the words " furnish list of persons liable to tax ", the words " comply with requisition to furnish list of persons carrying on profession, art, etc. " shall be substituted ;
- (v) in the item relating to section 115 in column 2, for the words " his representative to furnish list of persons liable to tax ", the words " head of an office, firm or company to comply with requisition to furnish list of persons in his employ " shall be substituted ;
- (vi) after the item relating to section 120, the following item shall be inserted, namely :—
[*Vide p. 284, Vol. III.*]
- (vii) in the item relating to section 122, for the figure and brackets " (1) ", the figures, word and brackets " (1) and (2) " shall be substituted ;
- (viii) in the item relating to section 124, for the figure and brackets " (1) ", the figure and brackets " (2) " shall be substituted ;
- (ix) in the item relating to section 168, the words " and regulations " shall be omitted ;
- (x) in the item relating to section 169, for the figure and brackets " (2) ", the figures, brackets and word " (2) and (4) " shall be substituted ;
- (xi) in the item relating to section 177, in column 2, the words " and regulations " shall be omitted ;
- (xii) in the item relating to section 181, in the second sub-column of the first column, the figure and brackets " (1) " shall be inserted ;
- (xiii) in the items relating to section 202—
(a) for the figures and brackets " (5) " and " (6) ", the figures and brackets " (4) " and " (5) " shall respectively be substituted ; and

- (b) for the items relating to sub-sections (3) and (4), the following item shall be substituted, namely :—
[*Vide p. 285, Vol. III.*]
- (xiv) after the item relating to section 209, the following item shall be inserted, namely :—
[*Vide p. 286, Vol. III.*]
- (xv) after the item relating to section 214, the following item shall be inserted, namely :—
[*Vide p. 286, Vol. III.*]
- (xvi) in the item relating to section 220, after the words “ in a street ” the words “ or any public place vested in the control of the corporation ” shall be inserted ;
- (xvii) after the item relating to section 229 (3), the following items shall be inserted, namely :—
[*Vide p. 286, Vol. III.*]
- (xviii) in the item relating to section 233, after the word “ construction ” the words “ reconstruction or retention ” shall be inserted ;
- (xix) after the item relating to section 254, the following items shall be inserted, namely :—
[*Vide pp. 286–287, Vol. III.*]
- (xx) (a) in the item relating to section 264, in the second sub-column of the first column, the figure and brackets “ (1) ” shall be inserted ; and
(b) after the same item, the following item shall be inserted, namely :—
[*Vide p. 287, Vol. III.*]
- (xxi) in the item relating to section 265, in column 2, after the word “ drinking ” the words “ bathing or washing clothes ” shall be inserted ;
- (xxii) for the items relating to section 268 (a), (b), (c) and (d), the following item shall be substituted, namely :—
[*Vide p. 288, Vol. III.*]
- (xxiii) in the item relating to section 270, in column 2, for the words “ prickly-pear or other noxious vegetation ” the words “ any thick or noxious vegetation ” shall be substituted ;
- (xxiv) after the item relating to section 270, the following item shall be inserted, namely :—
[*Vide p. 288, Vol. III.*]
- (xxv) after the item relating to section 275 (4), the following item shall be inserted, namely :—
[*Vide p. 288, Vol. III.*]
- (xxvi) after the item relating to section 284, the following items shall be inserted, namely :—
[*Vide p. 289, Vol. III.*]

(xxvii) for the items relating to sections 287, 288, 289 and 290, the following items shall be substituted, namely :—

[*Vide p. 289, Vol. III.*]

(xxviii) in the item relating to section 302, in column 2, the words “ of food ” shall be omitted and for the word “ licence ” in both the places where it occurs, the word “ permission ” shall be substituted ;

(xxix) after the item relating to section 308, the following item shall be inserted, namely :—

[*Vide p. 289, Vol. III.*]

(xxx) in the item relating to section 310, for the words in column 2, the following words shall be substituted, namely :—

[*Vide p. 290, Vol. III.*]

(xxxi) after the item relating to section 315, the following item shall be inserted, namely :—

[*Vide p. 290, Vol. III.*]

(xxxii) in the item relating to section 325, in column 2, for the words “ in place contrary to Act or by-laws ” the words “ etc., of corpses ” shall be substituted ;

(xxxiii) after the item relating to section 337, the following item shall be inserted, namely :—

[*Vide p. 290, Vol. III.*]

(xxxiv) after the item relating to section 343, the following item shall be inserted, namely :—

[*Vide p. 290, Vol. III.*]

(xxxv) after the item relating to section 376 (1), the following item shall be inserted, namely :—

[*Vide p. 291, Vol. III.*]

(xxxvi) in the item relating to section 406, in column 2, for the words “ municipal contractors ” the words “ council, standing committee, Mayor ” shall be substituted ; and

(xxxvii) in the item relating to section 408, in column 2, the words “ or commissioner ” shall be added at the end.

Amendment
of Schedule
VIII,
Madras
Act IV of
1919.

244. In Schedule VIII to the said Act—

(i) in the items relating to sections 169, 177 (2) and (3), 183, 186, 188, 260, 261, 263, 264, 265, 269, 270, 271, 272, 273 and 334, and Schedule V, rule 18, for the word “ obey ” the words “ comply with ” shall be substituted ;

(ii) in the item relating to section 168, in column 2 the words “ and regulations ” shall be omitted ;

(iii) in the item relating to section 169, after the figure and brackets “ (2) ”, the word, figure and brackets “ and (4) ” shall be inserted ;

- (iv) in the item relating to section 177, in column 2, the words “ and regulations ” shall be omitted ;
- (v) in the item relating to section 202, for the figure and brackets “ (5) ”, the figure and brackets “ (4) ” shall be substituted ;
- (vi) after the item relating to section 227, the following item shall be inserted, namely :—
[*Vide p. 292 , Vol. III.*]
- (vii) in the item relating to section 233, after the word “ construction ”, the words “ reconstruction or retention ” shall be inserted ;
- (viii) after the item relating to section 254, the following items shall be inserted, namely :—
[*Vide pp. 292–293, Vol. III.*]
- (ix) in the item relating to section 265, in column 2, after the word “ drinking ”, the words “ bathing or washing clothes ” shall be added ;
- (x) in the item relating to section 270, in column 2 for the words “ prickly-pear or other noxious vegetation ” the words “ any thick or noxious vegetation ” shall be substituted ;
- (xi) after the item relating to section 270, the following item shall be inserted, namely :—
[*Vide p. 293, Vol. III.*]
- (xii) after the item relating to section 273, the following item shall be inserted, namely :—
[*Vide p. 293, Vol. III.*]
- (xiii) after the item relating to section 284, the following items shall be inserted, namely :—
[*Vide p. 294, Vol. III.*]
- (xiv) for the items relating to sections 287, 288, 289 and 290, the following items shall be substituted, namely :—
[*Vide p. 294, Vol. III.*]
- (xv) after the item relating to section 308, the following item shall be inserted, namely :—
[*Vide p. 294, Vol. III.*]
- (xvi) after the item relating to section 309, the following items shall be inserted, namely :—
[*Vide p. 294, Vol. III.*]
- (xvii) after the item relating to section 334, the following items shall be inserted, namely :—
[*Vide p. 294, Vol. III.*]

SCHEDULE.

[See section 2 (2).]

Section. (1)	Sub-section. (2)	For the words. (3)	Substitute the words. (4)
42	..	is of opinion. arrangements to his satisfaction. provision to his satisfaction.	are of opinion. arrangements to their satisfaction. provision to their satisfaction.
43	(3)	in his opinion. to his orders.	in their opinion. to their orders.
44	(2) proviso.	he proposes.	they propose.
87	(2)	refuses to confirm.	refuse to confirm.
89	..	if he considers. of his own motion.	if they consider. of their own motion.

THE MADRAS DEBT CONCILIATION ACT, 1936.

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MADRAS ACT No. XI OF 1936¹.

[THE MADRAS DEBT CONCILIATION ACT, 1936.]

[28th April 1936.]

An Act to make provision for the setting up of Debt Conciliation Boards to relieve Agriculturists from indebtedness.

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors ; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Debt Conciliation Act, 1936.

(2) It extends to the whole of the Presidency of Madras.

(3) It shall come into force on such * date as the ² [Provincial Government] may, by notification, appoint.

Definitions.

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

(a) 'landholder' means a person holding land under a Sanad-i-Milkiyat-i-istimrar, a zamindar, shrotriyamdar, jagirdar or inamdar, a person farming the land revenue under Government, and a holder of any land under ryotwari settlement or in any way subject to the payment of revenue direct to Government ;

(b) 'tenant' means a ryot having a permanent right of occupancy in his holding and includes a kanamdar in Malabar and a 'Mulgeni' tenant in South Kanara ;

(c) 'agriculture' includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry or bees, sericulture and the growing of fruits, vegetables and the like ;

(d) 'board' means a Debt Conciliation Board established under sub-section (1) of section 3 ;

(e) 'creditor' means a person to whom a debt is owing and includes a co-operative society ;

(f) 'debt' means all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not but shall not include arrears of wages, land revenue or anything recoverable

* Came into force on the 1st January 1937.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 13th March 1934, Part IV, pages 100-102.

² These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Madras Act
I of 1908.

as an arrear of land revenue, rent as defined in the Madras Estates Land Act, 1908, or any money for the recovery of which a suit is barred by limitation ;

- (g) 'debtor' means a person—
- (i) who earns his livelihood mainly by agriculture or who is an occupancy tenant or landholder whether he cultivates the land personally or otherwise ; and
 - (ii) whose debts exceed one hundred rupees ;
- (h) 'prescribed' means prescribed by rules made under this Act ;
- (i) 'secured debt' includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise ;
- (j) 'secured creditor' means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

3. (1) The ¹[Provincial Government] may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a chairman and two members appointed by the Government. The chairman shall be a person who holds or has held an office not lower in rank than that of a Subordinate Judge or a Deputy Collector. One at least of the members shall be a non-official. The ¹[Provincial Government] may, for reasons to be recorded in writing, cancel the appointment of the chairman or any member of the board or dissolve any board and from the date of such dissolution the board shall cease to exist. Establishment and constitution of boards.

(2) The chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist the ¹[Provincial Government] may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Act.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Act, be transferred to and dealt with by one board as one single application.

Verification of application.

5. Every application to the board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. V of 1908.

Particulars to be stated in application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely :—

(a) a statement that the debtor is unable to pay his debts ;

(b) the place where he resides ;

(c) the amount and particulars of all claims against him together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him ; and

(d) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, namely :—

(a) the place where the debtor resides ; and

(b) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under section 4 the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings— Dismissal of application.

(a) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of debts ; or

(b) if, in the opinion of the board, the applicant fails to pursue his application with due diligence :

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor who shall thereafter be deemed to be the applicant for the purposes of this Act ; or

(c) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be : Notice calling upon creditors to submit statements of debts.

V of 1908.

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Subject to the provisions of sub-section (3) every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement,

the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section :

Provided that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt :

Provided the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board :

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Act, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1908.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

14. (1) If the creditors to whom more than fifty per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which, the assets from which and the times at which, they are to be paid. Such agreement if considered equitable by the board shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement :

Agreement of amicable settlement, its registration and effect.

Provided that, when a co-operative society is one of such creditors no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies :

Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Indian Registration Act, 1908, by the chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the chairman of the board shall be deemed to be an officer of the Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled ; the application under section 4 shall be deemed to have been received in the office of the board on the date of such revival, and all the provisions of this Act shall apply in respect of the application accordingly.

15. In any scheme of debt conciliation under this Act such properties as are exempt from attachment under the Code of Civil Procedure, 1908, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Properties exempt from attachment not to be taken into account.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of June 1933 twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months from the date of the application under section 4, the board shall dismiss the application.

Grant of certificate in respect of certain debts.

18. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

- (i) the fall or rise in the value of land and its produce in the locality ;
- (ii) the amount of consideration actually received ;
- (iii) the reasonableness of the rates of interest ;
- (iv) the onerous conditions, if any, subject to which the loan was granted ;
- (v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were ; and
- (vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decreases in suits after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed V of 1908.

as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

19. No civil court shall entertain—

Bar of civil suits.

(a) any suit in respect of—

- (1) any matter pending before a board, or
- (2) the validity of any procedure or the legality of any agreement made under this Act, or
- (3) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debtor, was party to such agreement ; or
- (4) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 10, except a debt which is revived under sub-section (3) of that section ; or

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

20. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under section 4 and until the agreement registered in pursuance of such application has been fully carried out shall be voidable by order of the board on application by the creditors so defeated or delayed.

Avoidance of certain transfers of debtors' property.

21. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, nor shall such alienation be voidable under section 53 of the Transfer of Property Act, 1882.

Alienation made with sanction of board not to be considered as a fraudulent preference.

III of 1909.
V of 1920.

IV of 1882.

22. No appeal or application for revision shall lie against any order passed by a board.

Bar of appeal or revision.

23. A board may, on application from any person interested, made within ninety days of the passing of an order, or on its own motion at any time review any order passed by it and pass such order in reference thereto as it thinks fit :

Power of board to review its order.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

24. In any proceedings before a board any party may appear in person or with the permission of the board by a legal practitioner or an agent authorized in writing.

Appearance of parties before board

Stay of pending suits or other proceedings. 25. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the board has dismissed the application.

Report by board regarding sums due to Government. 26. Where in the course of an enquiry into an application made under section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists' Loans Act, 1884, or the Land Improvements XII of 1884. Loans Act, 1883, or otherwise, the board shall report this fact XIX of 1883. to the Collector.

Computation of period of limitation for suits and proceedings. 27. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 48 of the Code of V of 1908. Civil Procedure, 1908, or under the Indian Limitation Act, IX of 1908, 1908.

Members of the board deemed to be public servants. 28. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Power to make rules. 29. (1) The ¹[Provincial Government] may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules—

- (a) with reference to all matters expressly required or allowed by this Act to be prescribed ;
- (b) regulating the procedure before a board ;
- (c) prescribing the charges to be made by a board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a board ;
- (e) prescribing the allowances, if any, to be paid to the chairman and members of a board ;

¹ These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(f) regulating the power of a board to summon parties and witnesses and the production of documents under section 13 and the grant of expenses to witnesses ; and

(g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14.

(3) All rules made under this Act shall be subject to the condition of the rules being made after previous publication.

(4) In making any rule, the ¹[Provincial Government] may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to ten rupees for every day during which the breach continues after the first breach.

MADRAS ACT No. XIII OF 1936.²

[THE MADRAS ESTATES LAND (SECOND AMENDMENT)
ACT, 1936.]

[5th May 1936.]

An Act to amend the Madras Estates Land (Amendment) Act, 1935, for a certain purpose.

Madras Act
I of 1936.

WHEREAS it is expedient to amend the Madras Estates Land (Amendment) Act, 1935, for the purpose hereinafter appearing :

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Madras Estates Land (Second Short title. Amendment) Act, 1936.

Madras Act
I of 1936.

2. (1) In sub-section (1) of section 2 of the Madras Estates Amendment Land (Amendment) Act, 1935 (hereinafter referred to as the said Act), for the expression “ 1st day of May 1936 ”, the expression “ ³[1st day of November 1936] ” shall be substituted. of section 2, Madras Act I of 1936.

(2) The said Act shall be read and construed as if the amendment hereby enacted had formed part of the said Act from its commencement.

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th March 1936—Part IV, pages 47-48.

³ This expression should be read as “ date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936 ” by virtue of section 12 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

490 *Betting Tax (Amendment)* [1936 : Mad. Act XIV
Commercial Crops Markets (Second [1936 : Mad. Act XV
Amendment)

MADRAS ACT No. XIV OF 1936.¹

[THE MADRAS BETTING TAX (AMENDMENT) ACT, 1936.]

[12th May 1936.]

An Act to amend the Madras Betting Tax Act, 1935,
for certain purposes.

WHEREAS it is expedient to amend the Madras Betting Tax Madras Act
XX of 1935.
Act, 1935, for the purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General
has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Betting Tax (Amend-
ment) Act, 1936.

Amendment 2. To clause (c) of sub-section (3) of section 1 of the Madras Madras Act
XX of 1935.
of section 1, Betting Tax Act, 1935 (hereinafter referred to as the said Act),
Madras Act the following proviso shall be added, namely :—
XX of 1935. [Vide p. 426, *supra*.]

Amendment 3. To sub-section (2) of section 10 of the said Act the
of section 10, following sentence shall be added at the end, namely :—
Madras Act [Vide p. 429, *supra*.]
XX of 1935.

MADRAS ACT No. XV OF 1936.²

[THE MADRAS COMMERCIAL CROPS MARKETS
(SECOND AMENDMENT) ACT, 1936.]

[9th June 1936.]

An Act further to amend the Madras Commercial Crops
Markets Act, 1933, for certain purposes.

WHEREAS it is expedient further to amend the Madras Com- Madras Act
XX of 1935.
mercial Crops Markets Act, 1933, for the purposes hereinafter
appearing ;

AND WHEREAS the previous sanction of the Governor-General
has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Commercial Crops
Markets (Second Amendment) Act, 1936.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 21st January 1936— Part IV, page 22.

² For Statement of Objects and Reasons, see *Fort St. George Gazette* (Extraordinary), dated 19th March 1936, pages 2-3.

**1936 : Mad. Act XV] Commercial Crops Markets (Second 491
Amendment)**
1936 : Mad. Act XVI] Famine Relief Fund

Madras Act
XX of 1933.

2. In sub-section (1) of section 4 of the Madras Commercial Crops Markets Act, 1933 (hereinafter referred to as the said Act), for the words "for the purchase and sale of the commercial crop or crops", the words "for the purchase, sale, storage, weighing, pressing or processing of the commercial crop or crops" shall be substituted.

Amendment
of section 4,
Madras Act
XX of 1933.

3. After the proviso to sub-section (2) of section 6 of the said Act, the following proviso shall be added, namely :—
 [Vide p. 347, *supra*.]

Amendment
of section 6,
Madras Act
XX of 1933.

4. In section 11 of the said Act, the words "by licensees" shall be omitted.

Amendment
of section
11, Madras
Act XX of
1933.

5. In clause (iv) of sub-section (2) of section 18 of the said Act, the words "to traders" and the words "by them" shall be omitted.

Amendment
of section
18, Madras
Act XX of
1933.

MADRAS ACT No. XVI OF 1936.¹

[THE MADRAS FAMINE RELIEF FUND ACT, 1936.]

[8th October 1936.]

An Act to provide for the establishment and maintenance in the ²[Province] of Madras of a Fund, called the Madras Famine Relief Fund, for utilization on occasions of serious famine and of distress caused by serious drought, flood or other natural calamities in the said ² [Province].

WHEREAS it is expedient to provide for the establishment and maintenance in the [Province] of Madras of a fund for utilization on occasions of serious famine and of distress caused by serious drought, flood or other natural calamities in the said ² [Province] ;

AND WHEREAS the Governor-General in Council has, with the sanction of the Secretary of State for India in Council, amended Schedule IV to the Devolution Rules made under the Government of India Act, so as to permit of the withdrawal of the balance standing at the credit of the Local Government concerned in the Famine Relief Fund ;

5 and 6,
Geo. 5,
Ch. 61.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated the 18th August 1936—Part IV, pages 301–302.

² This word was substituted for the word "Presidency" by Schedule II to the Government of India (Adaptation of Indian Laws) Order, 1937.

It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

' 1: (1) This Act may be called the Madras Famine Relief Fund Act, 1936.

(2) It extends to the whole of the ¹ [Province] of Madras.

(3) (a) This section shall come into force at once.

(b) The remaining provisions of this Act shall come into force on such* date as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], appoint.

Definition.

2. In this Act, " Fund " means the Madras Famine Relief Fund established under section 3.

Establish-
ment of the
Madras
Famine
Relief Fund.

3. On the commencement of this Act, the ² [Provincial Government] shall establish in and for the ¹ [Province] of Madras a fund called " The Madras Famine Relief Fund."

The Fund shall consist of—

(i) the securities of the ⁴ [Central Government] mentioned in section 4 ;

(ii) the interest which may from time to time accrue on such securities :

(iii) such other sums as the ² [Provincial Government] may from time to time contribute to the Fund under sub-section (2) of section 7 or otherwise ; and

(iv) the interest which may from time to time accrue on ⁵ [the securities of the Central or of the Provincial Government] in which the sums to the credit of the Fund may be invested or re-invested under section 6.

Withdrawal
and
investment
of balance
at credit of
Provincial
Government
in Famine
Relief Fund
maintained
under
Devolution
Rules.

4. The ² [Provincial Government] shall, on the commencement of this Act, apply to the ⁶ [Central Government] for permission to withdraw the balance at their credit in the Famine Relief Fund maintained under Schedule IV to the Devolution Rules made under the Government of India Act ^{5 and 6} and on such permission being accorded, the ² [Provincial ^{Geo. 5} Government] shall, after setting apart from the balance so ^{Ch. 61.} withdrawn, such sum as may be required during the remaining portion of the financial year 1936-37 to meet the expenditure

¹ This word was substituted for the word " Presidency " by Schedule II to the Government of India (Adaptation of Indian Laws), Order, 1937.

² These words were substituted for the words " Local Government " by paragraph 4 (1), *ibid*.

³ These words were substituted for the words " Fort St. George Gazette " by *ibid*.

⁴ These words were substituted for the words " Government of India " by *ibid*.

⁵ These words were substituted for the words " the securities of the Central Government " by section 2 of the Madras Famine Relief Fund (Amendment) Act, 1938 (Mad. Act IX of 1938).

⁶ These words were substituted for the words " Governor-General in Council " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

* Came into force on the 8th October 1936.

on the relief of famine and on the construction of works, for which provision has been made in the budget for such year as expenditure to be met out of the Fund aforesaid, invest the balance in the securities of the ¹ [Central Government] in the name of the Secretary to the Government of Madras, Finance Department.

5. The Fund shall not be expended except upon—

- (i) the relief of serious famine in the ² [Province] of Madras ; and
- (ii) the relief of distress caused by serious drought, flood or other natural calamities in the said ² [Province];

Purposes for which the Fund may be utilized.

Provided that when the Fund exceeds forty lakhs of rupees, the ³[Provincial Government] may utilize the excess to meet expenditure on protective irrigation works and other works for the prevention of famine in the said ²[Province].

6. The ³ [Provincial Government] shall from time to time invest or re-invest in ⁴ [the securities of the Central or of the Provincial Government] all sums to the credit of the Fund, which may not be immediately required for any of the purposes mentioned in section 5.

Investment and re-investment of amounts not required.

7. (1) The accounts of the Fund shall be made up at the end of each financial year, the securities belonging to the Fund being valued at their market value on the last day of such year.

Accounts of the Fund and making up of the deficiency in the Fund.

(2) If the accounts so made up show that the balance in the Fund at the end of such year falls short of sixty lakhs of rupees, the deficiency shall be made up from the revenues of the Province :

Provided that if the deficiency exceeds five lakhs of rupees, it may be made up in annual instalments, the amount of each instalment except the last being not less than five lakhs of rupees.

⁵[(3) All sums payable to the Fund under sub-section (2) shall be expenditure charged on the revenues of the Province.]

¹ These words were substituted for the words " Government of India " by paragraph 4 (1) of the Government of India (Adaptation of Indian Law) Order, 1937.

² This word was substituted for the word " Presidency " by Schedule II, *ibid.*

³ These words were substituted for the words " Local Government " by paragraph 4 (1), *ibid.*

⁴ These words were substituted for the words " the securities of the Central Government " by section 2 of the Madras Famine Relief Fund (Amendment) Act, 1938 (Mad. Act IX of 1938).

⁵ This sub-section was added by section 3, *ibid.*

District Municipalities [1936 : Mad. Act XVII
(Second Amendment)]

Estates Land (Third [1936 : Mad. Act XVIII
Amendment).

MADRAS ACT No. XVII OF 1936.¹

[THE MADRAS DISTRICT MUNICIPALITIES (SECOND
AMENDMENT) ACT, 1936.]

[20th October 1936.]

An Act further to amend the Madras District Municipalities Act, 1920, for a certain purpose.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, for the purpose hereinafter appearing ; ^{Madras Act V of 1920.}
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras District Municipalities (Second Amendment) Act, 1936.

Amendment of section 12-C, Madras Act V of 1920.

2. In clause (a) of sub-section (6) of section 12-C of the Madras District Municipalities Act, 1920, for the words 'not exceeding eight hundred rupees per mensem in the aggregate', the words 'not exceeding in the aggregate, one thousand two hundred rupees per mensem in the case of the Madura Municipality and eight hundred rupees per mensem in the case of any other municipality', shall be substituted. ^{Madras Act V of 1920.}

MADRAS ACT No. XVIII OF 1936.²

[THE MADRAS ESTATES LAND (THIRD AMENDMENT) ACT,
1936.]

[31st October 1936.]

An Act further to amend the Madras Estates Land Act, 1908, and to amend the Madras Estates Land (Amendment) Act, 1934, for certain purposes.

WHEREAS it is expedient further to amend the Madras Estates Land Act, 1908, and to amend the Madras Estates Land (Amendment) Act, 1934, for the purposes hereinafter appearing ; ^{Madras Act I of 1908. Madras Act VIII of 1934.}

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Estates Land (Third Amendment) Act, 1936.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 11th August 1936—Part IV, pages 285–286.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 17th March 1936—Part IV, pages 62–67.

Madras Act I of 1908.

2. In section 3 of the Madras Estates Land Act, 1908 (hereinafter referred to as the said Act),—
- (i) for sub-clause (d) of clause (2), the following sub-clause shall be substituted, namely :—
[*Vide p. 390, Vol. II.*]; and
- (ii) for clause (10), the following clause shall be substituted, namely :—
[*Vide pp. 392-393, Vol. II.*]
3. Explanation (2) to sub-section (1) of section 6 of the said Act shall be renumbered as Explanation (3) and the following shall be inserted as Explanation (2), namely :—
[*Vide p. 395, Vol. II.*]
4. In section 8 of the said Act,—
- (i) the proviso to sub-section (1) shall be omitted,
- (ii) in sub-section (3), the words, figure and brackets ‘except in the case referred to in the proviso to sub-section (1)’ shall be omitted; and
- (iii) after sub-section (4), the following sub-section shall be added, namely :—
[*Vide p. 397, Vol. II.*]
5. After section 22 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 402, Vol. II.*]
6. To section 28 of the said Act, the following proviso shall be added, namely :—
[*Vide p. 404, Vol. II.*]
7. In clause (a) of sub-section (1) of section 163-A of the said Act, for the word, figure and brackets “Explanation (2)” the word, figure and brackets “Explanation (3)” shall be substituted.
8. For section 185 of the said Act, the following section shall be substituted, namely :—
[*Vide p. 465, Vol. II.*]
9. After section 185 of the said Act, the following sections shall be inserted, namely :—
[*Vide pp. 465-467, Vol. II.*]
10. In sub-section (1) of section 192 of the said Act, after the words ‘or to any specified classes of such suits, applications, appeals or proceedings’, the words ‘or to applications or other proceedings before the Tribunal constituted under section 185-A’ shall be inserted.

Amendment of section 3, Madras Act I of 1908.

Amendment of section 6, Madras Act I of 1908.

Amendment of section 8, Madras Act I of 1908.

Insertion of new section 23 in Madras Act I of 1908.

Amendment of section 28, Madras Act I of 1908.

Amendment of section 163-A, Madras Act I of 1908.

Substitution of new section for section 185, Madras Act I of 1908.

Insertion of new sections 185-A and 185-B in Madras Act I of 1908.

Amendment of section 192, Madras Act I of 1908.

Amendment of Schedule, Madras Act I of 1908. **11.** In Part B of the Schedule to the said Act, after item 43 relating to section 163, 2nd paragraph, the following item shall be added, namely :—
[*Vide p. 484, Vol. II.*]

Amendment of section 127, Madras Act VIII of 1934. **12.** In sub-section (2) of section 127 of the Madras Estates Land (Amendment) Act, 1934, for the words and figures 'the 1st day of November 1936', in both the places where they occur, the words, figures and brackets 'the date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936' shall be substituted. Madras Act VIII of 1934.

Disposal of proceedings stayed by Madras Act VIII of 1934. **13.** All proceedings stayed under sub-section (2) of section 127 of the Madras Estates Land (Amendment) Act, 1934, shall be disposed of as if the Madras Estates Land Act, 1908, as amended by the Madras Estates Land (Amendment) Act, 1934, and by this Act, had been in force at the time of the institution of the said proceedings in the court of first instance. Madras Act VIII of 1934.

Computation of period of limitation in certain cases. **14.** In computing the period of limitation prescribed for any suit or application for the ejection of a tenant or for any proceeding involving a decision whether or not the inamdar has the kudivaram right in any land in an inam village, the period between the date on which the Madras Estates Land (Amendment) Act, 1934, came into force and the date on which this Act comes into force shall be excluded in cases to which sub-section (2) of section 127 of the Madras Estates Land (Amendment) Act, 1934, applies. Madras Act VIII of 1934.

MADRAS ACT No. XIX OF 1936.¹

[THE MADRAS BORSTAL SCHOOLS (AMENDMENT) ACT,
1936.]

[10th November 1936.]

An Act to amend the Madras Borstal Schools Act, 1925,
for certain purposes.

WHEREAS it is expedient to amend the Madras Borstal Schools Act, 1925, for the purposes hereinafter appearing ; Madras Act V of 1926.
AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Madras Borstal Schools (Amendment) Act, 1936.

¹For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th February 1936—Part IV, pages 35-36.

2. In section 4 of the Madras Borstal Schools Act, 1925 (hereinafter referred to as the said Act)—

Amendment of section 4, Madras Act V of 1926.

(i) in sub-section (1), after the words “ The ¹[Provincial Government] may,” the words “ after previous publication ” shall be inserted ;

(ii) in sub-section (2)—

(a) clauses (a) and (c) shall be omitted and clauses (b) and (d) shall be relettered (a) and (b) respectively ; and

(b) in clause (b) as so relettered, the word “ classification ” shall be omitted ;

(iii) the following clauses shall be inserted as clauses (c) and (d) :—

[*Vide p. 124, supra.*]

(iv) in sub-section (3), the words “ except those referred to in the sub-section following ” shall be omitted ; and

(v) sub-section (4) shall be omitted.

3. In the opening paragraph of section 8 of the said Act, after the words “ shall not exceed five years ”, the words “ but in no case extending beyond the date on which the adolescent offender will, in the opinion of the Court, attain the age of twenty-three years ” shall be added.

Amendment of section 8, Madras Act V of 1926.

4. In section 14 of the said Act, after the words “ bad influence on the other inmates of the school,” the words brackets and figures “ or in the case of a person directed to be sent to a Borstal school before the commencement of the Madras Borstal Schools (Amendment) Act, 1936, to be over twenty-three years of age ” shall be inserted.

Amendment of section 14, Madras Act V of 1926.

5. After Part III of the said Act, the following Part shall be inserted, namely :—

Insertion of new Part III-A in Madras Act V of 1926.

[*Vide pp. 128-130 . . ., supra.*]

6. After section 21 of the said Act, the following section shall be inserted, namely :—

Insertion of new section 21-A in Madras Act V of 1926.

[*Vide p. 130 . . ., supra.*]

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

MADRAS ACT No. XX OF 1936.¹

[THE MADRAS CITY POLICE (AMENDMENT) ACT, 1936.]

[10th November 1936.]

An Act further to amend the Madras City Police Act, 1888, and the Madras City Police (Amendment) Act, 1907, for certain purposes.

WHEREAS it is expedient further to amend the Madras City Police Act, 1888, and the Madras City Police (Amendment) Act, 1907, for the purposes hereinafter appearing ;

Madras Act
III of 1888.
Madras Act
III of 1907.

AND WHEREAS the Secretary of State for India in Council has authorized the Local Legislature to amend the said Acts in so far as they provide for the control by the Inspector-General of Police of the administration of the Madras City Police ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Police (Amendment) Act, 1936.

Amendment
of section 3,
Madras Act
III of 1888.

2. In section 3 of the Madras City Police Act, 1888 (hereinafter referred to as the said Act), at the end of the definition of “common gaming house,” the following words shall be added, namely :—

Madras Act
III of 1888.

[Vide p. 151, Vol. II.]

Amendment
of section 11,
Madras Act
III of 1888.

3. In section 11 of the said Act, for the words “fine, suspend, reduce or dismiss any member thereof; provided that no fine shall exceed one month’s pay,” the words “dismiss, suspend or reduce to a lower post or time-scale or to a lower stage in a time-scale, any member ² [of the subordinate ranks of the Police force] and may order the recovery from the pay of any such member, of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders” shall be substituted.

Amendment
of section 17,
Madras Act
III of 1888.

4. In section 17 of the said Act, for the words “special constable” the words “special police officer” shall be substituted and the following sentence shall be added at the end, namely :—

[Vide p. 155, Vol. II.]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th March 1936—Part IV, pages 40-42.

² These words were substituted for the word “there of” by paragraph 6 of the Government of India (Adaptation of Indian Laws) Order, 1937.

5. In sections 18 and 19 of the said Act, for the words "special constable" the words "special police officer" shall be substituted.

Amendment of sections 18 and 19, Madras Act III of 1888.

6. For section 21 of the said Act, the following section shall be substituted, namely :—

[*Vide pp. 156-157, Vol. II.*]

Substitution of new section for section 21 in Madras Act III of 1888.

7. In section 51 of the said Act, for the words and figures "shall be deemed guilty of cheating punishable under section 417 of the Indian Penal Code," the following words shall be substituted, namely :—

[*Vide p. 163, Vol. II.*]

Amendment of section 51, Madras Act III of 1888.

8. In section 71 of the said Act—

(i) for clause (v), the following clause shall be substituted, namely :—

[*Vide pp. 167-168, Vol. II.*]; and

Amendment of section 71, Madras Act III of 1888.

(ii) for clause (xvi), the following clause shall be substituted, namely :—

[*Vide p. 169, Vol. II.*]

9. In section 81 of the said Act, for the words "done under the provisions of this Act," the words "done either under the provisions of this Act, or under the provisions of any other law for the time being in force, conferring powers on the police" shall be substituted.

Amendment of section 81, Madras Act III of 1888.

Madras Act III of 1907.

10. In section 2 of the Madras City Police (Amendment) Act, 1907, after the words "functions under the said Act," the words and figure "except those under section 7 thereof" shall be inserted, and the following words shall be omitted, namely :—

[*Vide p. 380, Vol. II.*]

Amendment of section 2, Madras Act III of 1907.

MADRAS ACT No. XXI OF 1936.¹

[THE MADRAS DISTRICT POLICE (AMENDMENT) ACT, 1936.]

[10th November 1936.]

An Act further to amend the Madras District Police Act, 1859, for certain purposes.

XXIV of 1859.

WHEREAS it is expedient further to amend the Madras District Police Act, 1859, for the purposes hereinafter appearing ;

AND WHEREAS the Secretary of State for India in Council has authorized the Local Legislature to amend the said Act in so far as it relates to matters of discipline and conduct of the members of the Police force ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th March 1936—Part IV, pages 45-46.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras District Police (Amendment) Act, 1936.

Amendment of the preamble to Act XXIV of 1859. 2. In the preamble to the Madras District Police Act, 1859 (hereinafter referred to as the said Act), the words “ at the disposal of the Magistrate ” shall be omitted.

Amendment, of section 1, Act XXIV of 1859. 3. In section 1 of the said Act—
(i) for the definition of “ subordinate ” the following definitions shall be substituted, namely :—

[*Vide p. 87, Vol. I.*] ; and

(ii) in the definition of “ property ”, for the word “ chattel ”, the words “ movable property ” shall be substituted.

Amendment of section 5, Act XXIV of 1859. 4. In section 5 of the said Act, for the word “ subordinates ”, the words “ superior police officers ” shall be substituted.

5. ¹ [*Not printed.*]

Amendment of section 13, Act XXIV of 1859. 6. In section 13 of the said Act—
(i) ² [*Not printed.*]

(ii) after the words “ Inspector-General ” in both the places where they occur, the words “ or Deputy Inspector-General ” shall be inserted ; and

(iii) for the words “ depute ” and “ deputation ”, the words “ appoint ” and “ appointment ” shall respectively be substituted.

Amendment of section 16, Act XXIV of 1859. 7. In section 16 of the said Act, for the words “ tumult, riot or outrage ”, the words “ unlawful assembly or riot or disturbance of the peace ” shall be substituted.

Amendment of section 17, Act XXIV of 1859. 8. In section 17 of the said Act, the following sentence shall be added at the end, namely :—

[*Vide p. 91, Vol. I.*]

¹ For section 10 of the Madras District Police Act, 1859 (XXIV of 1859), as amended by section 5 of this Act, new section 10 was substituted by the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937—See page 89, Madras Code, Vol. I.

² For the words “ or any Deputy Inspector-General ” inserted by section 6 (i) and certain other words, the words “ Provincial Government ” were substituted by *ibid*—See page 90, Madras Code, Vol. I.

9. In section 44 of the said Act, for the words and figures "wilful breach of any lawful orders and regulations not punishable under section 10 of this Act", the words "wilful breach or neglect of any rule or regulation or lawful order made by competent authority" shall be substituted. Amendment of section 44, Act XXIV of 1859.

10. For section 50 of the said Act, the following section shall be substituted, namely :—
 [Vide p. 94, Vol. I.] Substitution of new section for section 50 in Act XXIV of 1859.

11. In section 52 of the said Act, for the words "goods and chattels", the words "movable property" shall be substituted. Amendment of section 52, Act XXIV of 1859.

12. In section 53 of the said Act, for the words "under the provisions of this Act or under the general Police-powers hereby given" the words "either under the provisions of this Act or under the provisions of any other law for the time being in force, conferring powers on the police" shall be substituted. Amendment of section 53, Act XXIV of 1859.

13. After section 54 of the said Act, the following section shall be inserted, namely :—
 [Vide p. 95, Vol. I.] Insertion of new section 54-A in Act XXIV of 1859.

14. To the said Act, the following Schedule shall be added, namely :—
 [Vide p. 95, Vol. I.] Insertion of new schedule in Act XXIV of 1859.

MADRAS ACT No. XXII OF 1936.¹

[THE MADRAS RIVERS CONSERVANCY (AMENDMENT)
 ACT, 1936.]

[10th November 1936.]

An Act further to amend the Madras Rivers Conservancy Act, 1884, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Rivers Conservancy Act, 1884, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Madras Act
 VI of
 1934.

1. This Act may be called the Madras Rivers Conservancy Short title. (Amendment) Act, 1936.

2. In the proviso to section 14 of the Madras Rivers Conservancy Act, 1884, for the words "Governor in Council" in both the places where they occur, the words "Board of Revenue" shall be substituted. Amendment of section 14, Madras Act VI of 1884.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 30th June 1936, Part IV, page 270.

MADRAS ACT No. XXIII OF 1936.¹

[THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT)
ACT, 1936.]

[24th November 1936.]

An Act further to amend the Madras District Municipalities Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, for the purposes hereinafter appearing ; AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras District Municipalities (Amendment) Act, 1936.

Amendment of section 131, Madras Act V of 1920. 2. (a) In clause (d) of the Explanation to sub-section (3) of section 131 of the Madras District Municipalities Act, 1920 (hereinafter referred to as the said Act), the words " tanks in or near temples and mosques " shall be omitted.

(b) Sub-section (4) of section 131 of the said Act shall be omitted.

Amendment of section 132, Madras Act V of 1920. 3. Sub-section (2) of section 132 of the said Act shall be omitted and sub-section (1) of that section shall be renumbered as section 132.

Insertion of new section 132-A in Madras Act V of 1920. 4. After section 132 of the said Act, the following heading and section shall be inserted, namely :—

[Vide p. 417, Vol. III.]

Orders under section 132 (2) of Madras Act V of 1920 to have effect as by-laws. 5. All orders, whether general or special, issued under sub-section (2) of section 132 of the said Act before the commencement of this Act shall, notwithstanding anything contained either in the said Act or in this Act, be deemed to have the same force and effect as by-laws made under the said Act as amended by this Act.

Validation of certain by-laws, orders and agreements. 6. Where before the commencement of this Act, a municipal council makes a by-law under sub-section (4) of section 131 of the said Act, or issues any general or special order under sub-section (2) of section 132 thereof or enters into any agreement with any person for the supply of water and such by-law, order or agreement provides for the levy of a charge for the water supplied on the basis of the number of taps allowed, irrespective of the quantity of water consumed, the same shall be deemed to be valid, notwithstanding anything contained in the said Act.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 26th May 1936, Part IV, page 265.

MADRAS ACT No. XXIV OF 1936.¹[THE MADRAS MOTOR VEHICLES TAXATION (AMENDMENT)
ACT, 1936.]

[1st December 1936.]

An Act further to amend the Madras Motor Vehicles Taxation Act, 1931, for certain purposes.

WHEREAS it is expedient further to amend the Madras Motor Vehicles Taxation Act, 1931, for the purposes hereinafter appearing;

Madras
Act III of
1931.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows :—

1. This Act may be called the Madras Motor Vehicles Taxation (Amendment) Act, 1936. Short title.

2. (1) For sub-section (1) of section 5 of the Madras Motor Vehicles Taxation Act, 1931 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely :— Amendment of section 5, Madras Act III of 1931.
[*Vide pp. 270-271, supra.*]

Madras
Act III of
1931.

(2) In sub-section (2) of the same section, for the word “quarter” in both the places where it occurs, the word “period” shall be substituted.

(3) In clause (a) of sub-section (3) of the same section—
(i) in sub-clause (i), for the words “quarter or quarters”, the word “period” shall be substituted; and
(ii) in sub-clause (ii), before the word “record”, the words, letter, figure and brackets “in the case referred to in clause (a) of sub-section (1),” shall be inserted and for the words “quarter or quarters”, the word “period” shall be substituted.

3. In sub-section (2) of section 6 of the said Act, for the words “licence has been obtained in respect of such vehicle for the quarter then current”, the words “licence has been duly obtained in respect of such vehicle” shall be substituted. Amendment of section 6, Madras Act III of 1931.

4. In section 7 of the said Act, after the words “the tax due by him in respect of such vehicle”, the words “for the quarter or quarters concerned” shall be inserted. Amendment of section 7, Madras Act III of 1931.

5. In sub-sections (1) and (2) of section 17 of the said Act, after the word and figures “Schedule II”, the words and figures “or Schedule III” shall be inserted. Amendment of section 17, Madras Act III of 1931.

6. After Schedule II to the said Act, the following Schedule shall be added, namely :— Insertion of new Schedule III in Madras Act III of 1931.
[*Vide pp. 278-280, supra.*]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 14th January 1936, Part IV, pages 10-11.

*District Municipalities and [1936 : Mad. Act XXV
Local Boards (Amendment)
Local Boards (Amendment) [1936 : Mad. Act XXVI*

MADRAS ACT No. XXV OF 1936.¹

[THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS
(AMENDMENT) ACT, 1936.]

[1st December 1936.]

An Act further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for a certain purpose.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purpose hereinafter appearing ;

Madras Act
V of 1920.
Madras Act
XIV of 1920.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras District Municipalities and Local Boards (Amendment) Act, 1936.

Insertion of
new section
351-B in
Madras Act
V of 1920.

2. After section 351-A of the Madras District Municipalities Act, 1920, the following section shall be inserted, namely :—

[Vide p. 514, Vol. III.]

Madras Act
V of 1920.

Insertion of
new section
225-A in
Madras Act
XIV of
1920.

3. After section 225 of the Madras Local Boards Act, 1920, the following section shall be inserted, namely :—

[Vide p. 753, Vol. III.]

Madras Act
XIV of
1920.

MADRAS ACT No. XXVI OF 1936.²

[THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1936.]

[22nd December 1936.]

An Act to amend the Madras Local Boards (Amendment) Act, 1935, for certain purposes.

WHEREAS it is expedient to amend the Madras Local Boards (Amendment) Act, 1935, for the purposes hereinafter appearing ;

Madras Act
XIII of
1935.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Local Boards (Amendment) Act, 1936.

Amendment
of section 7,
Madras Act
XIII of
1935.

2. In section 7 of the Madras Local Boards (Amendment) Act, 1935 (hereinafter referred to as the said Act)—

(i) in clause (a), the words “ on the commencement of this Act ” shall be omitted ; and

Madras Act
XIII of
1935.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 11th August 1936, Part IV, pages 284–285.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 17th November 1936, Part IV, page 352.

(ii) in the table in sub-clause (iii) of clause (b)—

(a) after item I (c), the following item shall be inserted, namely :—

“(d) District of Chicacole. The district board and all panchayats in the district. 31st December 1937.”

; and

(b) in item II (a), after the word “Vizagapatam” in column (1), the word “Chicacole” shall be inserted; and for the expression “Do.” in column (3), the expression “31st December 1935” shall be substituted.

3. In the list of districts in the Schedule to the said Act—

(a) in Group I, after the entry “Vizagapatam”, the entry “Chicacole” shall be inserted; and

(b) in Group III, the entry “Ganjam” shall be omitted.

Amendment of the Schedule to Madras Act XIII of 1935.

MADRAS ACT No. I OF 1937.¹

[THE MADRAS CHILDREN (AMENDMENT) ACT, 1936.]

[2nd February 1937.]

An Act further to amend the Madras Children Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras Children Act, 1920, for the purposes hereinafter appearing;

Madras Act IV of 1920.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—

1. This Act may be called the Madras Children (Amendment) Act, 1936. Short title.

Madras Act IV of 1920.

2. (1) Section 25 of the Madras Children Act, 1920 (hereinafter referred to as the said Act), shall be renumbered as sub-section (1) of that section and in the sub-section as so renumbered :—

Amendment of section 25, Madras Act IV of 1920.

(i) after clause (b), the following word and clause shall be inserted, namely :—

[*Vide p. 307, Vol. III*]; and

(ii) in the last paragraph, for the words “in either case”, the words, letters and brackets “in any case in which it passes an order under clause (a) or clause (b)” and for the words “under the supervision of a person named by the court”, the words “under the supervision of a probation officer or of some other person, named by the court” shall be substituted.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th August 1936, Part IV, page 298.

(2) After the sub-section as so renumbered, the following sub-sections shall be added, namely :—

[*Vide pp. 307–308, Vol. III.*]

Amendment of section 28, Madras Act IV of 1920. 3. In section 28 of the said Act, clauses (d) to (j) shall be relettered as clauses (e) to (k) respectively, and after clause (c), the following clause shall be inserted, namely :—

[*Vide p. 309, Vol. III.*]

Amendment of section 29, Madras Act IV of 1920. 4. (1) In clause (d) of sub-section (1) of section 29 of the said Act, after the words “reputed thief”, the following word and clause shall be inserted, namely :—

[*Vide p. 310, Vol. III.*]

(2) To sub-section (3) of section 29 of the said Act, the following proviso shall be added, namely :—

[*Vide p. 311, Vol. III.*]

Amendment of section 29, Madras Act IV of 1920.

5. (1) In section 30 of the said Act—

(i) after the word “child” wherever it occurs, the words “or young person” shall be inserted ;

(ii) the word “junior” before the words “certified school” shall be omitted ; and

(iii) for the words “order him to be sent to any such school”, the words “order the child or young person to be sent to a junior or senior certified school, as the case may be” shall be substituted.

(2) To the same section, the following *Explanation* shall be added, namely :—

[*Vide p. 311, Vol. III.*]

MADRAS ACT No. II OF 1937.¹

[THE MADRAS VILLAGE COURTS (AMENDMENT) ACT, 1936]

[9th February 1937.]

An Act further to amend the Madras Village Courts Act, 1888, for certain purposes.

WHEREAS it is expedient further to amend the Madras Village Courts Act, 1888, for the purposes hereinafter appearing ;

Madras Act
I of 1889.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

Short title.

It is hereby enacted as follows :—

1. This Act may be called the Madras Village Courts (Amendment) Act, 1936.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th August 1936, Part IV, pages 305–306.

Madras Act
I of 1889.

2. In section 5 of the Madras Village Courts Act, 1888 (hereinafter referred to as the said Act)—

Amendment
of section 5,
Madras Act
I of 1889.

(i) in the definition of ' Village munsif ', for the words and figures ' and except in sections 7 and 16 includes the president of a panchayat court ' the following shall be substituted, namely :—

[*Vide p. 177, Vol. II.*] ; and

(ii) after the definition of ' District Munsif ', the following definition shall be inserted, namely :—

[*Vide p. 177, Vol. II.*]

3. For sub-section (5) of section 9 of the said Act, the following sub-section shall be substituted, namely :—

[*Vide pp. 179–180, Vol. II.*]

Amendment
of section 9,
Madras Act
I of 1889.

4. After section 9 of the said Act, the following sections shall be inserted, namely :—

[*Vide p. 180, Vol. II.*]

Insertion of
new sections
9-A and 9-B
in Madras
Act I of
1889.

5. In section 13 of the said Act, for the words ' personal property ' the words ' movable property ' shall be substituted.

Amendment
of section
13, Madras
Act I of
1889.

6. After section 53 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 188, Vol. II.*]

Insertion
of new
section 53-A
in Madras
Act I of
1889.

7. In section 76 of the said Act—

(i) for the first paragraph of sub-section (2), the following shall be substituted, namely :—

[*Vide p. 193, Vol. II.*] ; and

(ii) sub-section (7) shall be lettered as clause (a) of sub-section (7) and after the clause as so lettered, the following clause shall be added, namely :—

[*Vide p. 194, Vol. II.*]

Amendment
of section
76, Madras
Act I of
1889.

8. In sub-section (1) of section 77 of the said Act, for the word and figures ' section 403 ', the words, figures and letters ' sections 403, 476, 476-A and 476-B ' shall be substituted.

Amendment
of section
77, Madras
Act I of
1889.

9. In clause (b) of sub-section (2) of section 78 of the said Act, after the word ' presidents ', the word ' vice-presidents ' shall be inserted.

Amendment
of section
78, Madras
Act I of
1889.

**THE MADRAS PROBATION OF OFFENDERS
ACT, 1936.****TABLE OF CONTENTS.****SECTIONS.**

- 1 Short title, extent and commencement.
- 2 Interpretation.
- 3 Power of court to release certain offenders after admonition.
- 4 Power of court to release certain offenders on probation of good conduct.
- 5 Procedure in cases submitted by Magistrates not empowered to act under sections 3 and 4.
- 6 Powers of Appellate Courts.
- 7 Procedure in case of offender failing to observe conditions of release.
- 8 Provision as to bonds.
- 9 Appointment of probation officers.
- 10 Duties of probation officers.
- 11 Variation of conditions of probation and discharge of bonds executed by offender.
- 12 Effect of variation of bond on sureties.
- 13 Power of Provincial Government to make rules.
- 14 Saving of the operation of certain enactments.
- 15 Saving of the jurisdiction of the High Court.

MADRAS ACT No. III OF 1937.

[THE MADRAS PROBATION OF OFFENDERS ACT, 1936.]

[16th February 1937.]

An Act to provide for the release on probation of first offenders.

WHEREAS it is expedient to provide for the release on probation of first offenders in certain cases and for other matters incidental thereto ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Probation of Offenders Act, 1936.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the Presidency of Madras.

(3) (a) This section shall come into force at once.

(b) The ² [Provincial Government] may, by notification in the ³ [Official Gazette], direct that all or any of the remaining provisions of this Act shall come into force in any local area on such date* as may be specified in such notification.

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

Interpreta-
tion.

(a) the " Code " means the Code of Criminal Procedure, 1898 ; and

(b) expressions used but not defined in this Act and defined in the Code have the meanings assigned to them in the Code.

3. In any case in which a person is found guilty of the offence of theft, dishonest misappropriation, or cheating punishable under the Indian Penal Code or of any offence punishable with not more than two years imprisonment and no previous conviction is proved against him, the court by which he is found guilty may, if it thinks fit, having regard

Power of
court to
release
certain
offenders
after adm-
nition.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated 18th August 1936, pages 293 to 295 ; for Report of Select Committee, see Proceedings of the Madras Legislative Council, Volume LXXXIII, pages 133 to 141 ; for Proceedings in Council, see *ibid.*, Volume LXXXII, pages 856 and 857 and Volume LXXXIII, pages 77 and 78.

² These words were substituted for the words " Local Government " by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

* Extended to the City of Madras and the districts of Bellary, Coimbatore and Madura with effect from 26th March 1937 in Notification No. 283, Home, dated 16th March 1937; to North Arcot with effect from 20th July 1937 in Notification No. 729, Home, dated 20th July 1937.

to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

Power of court to release certain offenders on probation of good conduct.

4. (1) When any person not under twenty-one years of age is found guilty of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is found guilty of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the court by which he is found guilty, regard being had to the age, character, antecedents or physical or mental condition of the offender and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not exceeding three years as the court may direct, and in the mean time to keep the peace and be of good behaviour :

Provided that the court shall not direct the release of an offender under this section, unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(2) Where the offender referred to in sub-section (1) is under twenty-four years of age, the court may make a supervision order directing that such offender shall be under the supervision of such probation officer as may be named in the order during the period specified therein and imposing such other conditions for securing such supervision as may be specified in the order :

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the court, the offender will attain the age of twenty-five years.

(3) A court making a supervision order under sub-section (2) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants and any other matters as the court may, having regard to the particular circumstances of the case, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(4) A court making a supervision order shall furnish to the offender and the sureties, if any, a notice in writing stating in simple terms the conditions of the bond.

5. Notwithstanding anything contained in sections 3 and 4, where any first offender is found guilty of an offence by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the ¹ [Provincial Government] in this behalf, and the Magistrate is of opinion that the powers conferred by the said sections should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Subdivisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Procedure in cases submitted by Magistrates not empowered to act under sections 3 and 4.

6. An order under section 3 or section 4 may be made by an Appellate Court.

Powers of Appellate Courts.

7. (1) If the court before which the offender is bound by his bond under section 4 to appear for sentence when called upon, or any court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of the bond or bonds executed by him, it may issue a warrant for his apprehension, or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

Procedure in case of offender failing to observe conditions of release.

(2) The court before which an offender is so brought or appears may either remand him to custody until the case is concluded, or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the court, after hearing the case is satisfied that the offender has failed to observe any of the conditions of the bond or bonds executed by him, it may forthwith :—

- (a) sentence him for the original offence, or
- (b) without prejudice to the continuance in force of the bond or bonds, impose upon him, in respect of the first such failure, a penalty not exceeding the amount of fine which may be imposed for the original offence but in no case exceeding fifty rupees.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of India Laws) Order, 1937.

(4) If a penalty imposed under clause (b) of sub-section (3) is not paid within such period as the court may fix, the court may sentence the offender for the original offence.

Provision as to bonds.

8. The provision of sections 122, 126, 126-A, 406-A (b) and (c), 514, 514-A, 514-B and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act.

Appointment of probation officers.

9. (1) A probation officer named in a supervision order may be—

- (a) any person appointed to be a probation officer by the ¹ [Provincial Government], or
- (b) any person provided for this purpose by a society recognized in this behalf by the ¹ [Provincial Government], or
- (c) in any exceptional case, any other person who, in the opinion of the court, is a fit person to act as a probation officer in the special circumstances of the case.

Explanation.—A probation officer may be a person of either sex.

(2) In naming a probation officer in a supervision order, the court shall be guided by any general or special instructions the ¹ [Provincial Government] may issue in this behalf.

(3) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(4) The court before which an offender is bound by his bond to appear for sentence when called upon, or the District Magistrate of the district in which the offender for the time being resides, may at any time appoint another probation officer in the place of the person named in a supervision order.

Explanation.—For the purposes of this section, the presidency town shall be deemed to be a district and the Chief Presidency Magistrate shall be deemed to be the District Magistrate of that district.

10. A probation officer shall, subject to rules made under this Act and to the directions of the court—

- (a) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order, or subject thereto, as the probation officer may think fit ;

Duties of probation officers.

¹ These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

- (b) see that he observes the conditions of the bond or bonds executed by him ;
- (c) report to the court as to his behaviour ; and
- (d) advise, assist and befriend him, and when necessary, endeavour to find suitable employment for him.

11. The court before which any offender is bound by his bond under section 4 to appear for sentence when called upon—

Variation of conditions of probation and discharge of bonds executed by offender.

- (a) may at any time if it appears, upon the application of the probation officer, that it is expedient that the bond or bonds executed by the offender should be varied, summon him, and if he fails to show cause why such variation should not be made, vary the bond or bonds by extending or diminishing the duration thereof (so, however, that it shall not exceed three years from the date of the original order and shall not extend beyond the date on which, in the opinion of the court, the offender shall attain the age of twenty-five years), or by altering the conditions thereof or by inserting additional conditions therein, or
- (b) may, on application made by the probation officer and on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond or bonds executed by him.

12. (1) When any condition in a bond is relaxed under the provisions of section 11, the condition as so relaxed and not the original condition shall be binding on the sureties to the bond.

Effect of variation of bond on sureties.

(2) Where any condition in a bond is made more onerous under the provisions of section 11, such condition shall not be binding in the more onerous form on any surety to the bond, unless he has accepted it in writing, but the condition in its original form shall continue to bind any surety who has not accepted the condition in its more onerous form.

(3) Where any additional condition is imposed under the provisions of section 11, such additional condition shall not be binding on any surety to the bond unless he has accepted it in writing.

(4) No variation in, or addition to, the conditions of any bond made under the provisions of section 11, shall affect the liability of any surety to the bond in respect of any condition which has not been varied.

Power of Provincial Government to make rules.

13. (1) The ¹ [Provincial Government] may, either generally or specially for any area or areas in which this Act is in force, make rules consistent with this Act for carrying out all or any of the purposes thereof.

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

(a) any matters incidental to the appointment, resignation and removal of probation officers ;

(b) the payment of remuneration and expenses to probation officers appointed by the ¹ [Provincial Government] direct, or of a subsidy to any society which provides persons for appointment as probation officers ; and

(c) the conditions on which societies may be recognized for the purposes of clause (b) of sub-section (1) of section 9.

(3) All rules made under this section shall be subject to the condition of previous publication.

Saving of the operation of certain enactments.

14. Nothing in this Act shall affect the provisions of section 31 of the Reformatory Schools Act, 1897, or the Madras Children Act, 1920, or the Madras Borstal Schools Act, 1925.

VIII of 1897
Madras Act
IV of 1920.
Madras Act
V of 1926.

Saving of the jurisdiction of the High Court.

15. Nothing in this Act shall be deemed in any way to affect or derogate from the jurisdiction of the High Court.

MADRAS ACT No. IV OF 1937.²

[THE MADRAS GENERAL CLAUSES (AMENDMENT)
ACT, 1936.]

[16th February 1937.]

‘An Act further to amend the Madras General Clauses Act, 1891, for a certain purpose.

WHEREAS it is expedient further to amend the Madras General Clauses Act, 1891, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras General Clauses (Amendment) Act, 1936.

Insertion of new section 8-A in Madras Act I of 1891.

2. After section 8 of the Madras General Clauses Act, the following section shall be inserted, namely :—
 [Vide p. 237, Vol. II.]

Madras Act
I of 1891.

¹ These words were substituted for the words “ Local Government ” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th November 1936—Part IV, page 336.

MADRAS ACT No. V OF 1937.¹

[THE MADRAS CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 1936]

[16th February 1937.]

An Act further to amend the Madras Co-operative Societies Act, 1932, for certain purposes.

Madras Act
VI of 1932.

WHEREAS it is expedient further to amend the Madras Co-operative Societies Act, 1932, for the purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Madras Co-operative Societies (Amendment) Act, 1936. Short title.

2. The amendment made by section 6 shall be deemed to have been made, and to have come into force, on the first day of August 1933. Section 6 to have retrospective effect.

Madras Act
VI of 1932.

3. In section 3 of the Madras Co-operative Societies Act, 1932 (hereinafter referred to as the said Act), the words “ and may appoint persons to assist such Registrar ” shall be omitted and for the words “ on any such persons ”, the words “ on any other persons ” shall be substituted. Amendment of section 3, Madras Act VI of 1932.

4. For clause (c) of sub-section (1) of section 51 of the said Act, the following clause shall be substituted, namely :— Amendment of section 51, Madras Act VI of 1932.
[*Vide p. 306, supra.*]

5. In the last paragraph of section 57-A of the said Act, after the words “ by the attachment and sale ”, the words “ or by the sale without attachment ” shall be inserted. Amendment of section 57-A, Madras Act VI of 1932.

6. After section 57-A of the said Act, the following section shall be inserted, namely :— Insertion of new section 57-B in Madras Act VI of 1932.
[*Vide pp. 309–310 supra.*]

MADRAS ACT No. VI OF 1937.²

[THE MADRAS REPEALING ACT, 1936.]

[23rd February 1937.]

An Act to repeal certain enactments.

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

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette* (Extraordinary), dated 26th November 1936—Part IV, pages 2–4.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 17th November 1936—Part IV, pages 354–358.

It is hereby enacted as follows :—

- Short title.** 1. This Act may be called the Madras Repealing Act, 1936.
- Repeal of certain enactments.** 2. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.
- Savings.** 3. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation, or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing ; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office, or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;
- nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE SCHEDULE.

Year.	Number.	Short title or subject.	Extent of repeal.
(1)	(2)	(3)	(4)
<i>Act of the Governor-General in Council.</i>			
1885	XXI	The Madras Civil Courts Act, 1885	Section 3.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1896	I	The Madras Rent Recovery (Amendment) Act, 1896.	The whole.
1900	IV	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.	The whole.
1904	IV	The Madras Village Panchayats' Regulation and the Madras Village Courts (Amendment) Act, 1904.	The whole.
1909	IV	The Madras Estates Land (Amendment) Act, 1909.	The whole except sections 1 and 9.
1916	II	The Madras Irrigation Cess (Amendment) Act, 1916.	The whole.
1919	VI	The Madras Civil Courts (Amendment) Act, 1919.	The whole.
1920	VI	The Madras Irrigation Cess (Amendment) Act, 1920.	The whole.
1920	XII	The Madras District Municipalities (Amendment) Act, 1920.	The whole.

<i>Acts of the Madras Legislature.</i>				
Year.	Number.	Short title or subject.		Extent of repeal.
(1)	(2)	(3)		(4)
1921	II	The Madras District Municipalities (Amendment) Act, 1921.		The whole.
1921	V	The Madras District Municipalities (Amendment) Act, 1921.		The whole.
1922	I	The Madras District Municipalities (Amendment) Act, 1921.		The whole.
1922	VII	The Madras City Municipal Act, 1922.	(Amendment)	Sections 2 and 3.
1923	I	The Malabar (Completion of Trials) Act, 1922.		The whole.
1924	IV	The Madras City Municipal Act, 1924.	(Amendment)	Section 3.
1925	V	The Madras Local Boards Act, 1924.	(Amendment)	The whole.
1927	VI	The Madras Planters Labour Act, 1927.	(Repealing)	The whole.
1928	II	The Madras Provention of Adulteration (Amendment) Act, 1927.		Section 4.
1929	XIV	The Madras Medical Registration (Second Amendment) Act, 1929.		Clause (i) of section 2.
1931	VII	The Madras Panchayats Act, 1931.	(Repealing)	The whole.
1935	XIV	The Madras City Municipal Act, 1935.	(Amendment)	The whole.

MADRAS ACT No. VII OF 1937.¹

[THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) ACT, 1936.]

[23rd February 1937.]

An Act further to amend the Madras State Aid to Industries Act, 1922, for certain purposes.

Madras Act V of 1923.

WHEREAS it is expedient further to amend the Madras State Aid to Industries Act, 1922, for the purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Madras State Aid to Industries (Amendment) Act, 1936. Short title.

Madras Act V of 1923.

2. In section 5 of the Madras State Aid to Industries Act, 1922 (hereinafter referred to as the said Act)—
 (i) after clause (c) of sub-section (1), the following shall be added, namely :—
 [Vide pp. 864–865, Vol. III.] ; and
 (ii) in sub-section (3), after the word “ final ” the words “ and shall not be called in question in any Court of law ” shall be added. Amendment of section 5, Madras Act V of 1923.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 10th November 1936—Part IV, pages 337–338.

518 *State Aid to Industries (Amendment)* [1937 : Mad. Act VII
Usurious Loans (Madras Amendment) [1937 : Mad. Act VIII

Amendment
of section 9,
Madras Act
V of 1923.

3. In section 9 of the said Act—

(i) for the words “ net value of the assets of the industrial business or enterprise after deducting existing encumbrances ”, the words “ net value of the assets of the industrial business or enterprise and of any other property offered as collateral security for the loan, after deducting in both cases existing encumbrances ” shall be substituted ; and

(ii) the proviso shall be omitted.

Amendment
of section
14-A, Madras
Act V of
1923.

4. In section 14-A of the said Act, for the words “ one thousand rupees ”, the words “ two thousand rupees ” shall be substituted.

Amendment
of section 19,
Madras Act
V of 1923.

5. At the end of clause (6) of sub-section (b) of section 19 of the said Act, the following words shall be added, namely —

[*Vide p. 869, Vol. III.*]

MADRAS ACT No. VIII OF 1937 ¹

[THE USURIOUS LOANS (MADRAS AMENDMENT) ACT, 1936.]

[2nd March 1937.]

An Act to amend the Usurious Loans Act, 1918, in its application to the Presidency of Madras, for certain purposes.

WHEREAS it is expedient to amend the Usurious Loans Act, X of 1918, in its application to the Presidency of Madras, for the 1918. purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title,
extent and
application.

1. (1) This Act may be called the Usurious Loans (Madras Amendment) Act, 1936.

(2) It extends to the whole of the Presidency of Madras.

(3) The provisions of this Act shall apply to all suits to which the Usurious Loans Act, 1918 (hereinafter referred to as the said Act), would apply and which are pending on, or are instituted on or after, the date of the commencement of this Act. X of 1918.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 24th November 1936—Part IV, pages 360–361.

2. In section 3 of the said Act—

- (i) in sub-section (1), for the words, letters and brackets beginning with “has reason to believe” and ending with “any of the following powers, namely, may,” the following shall be substituted, namely :—

Amendment
of section 3,
Act X of
1918.

“has reason to believe that the transaction was, as between the parties thereto, substantially unfair, the Court shall exercise one or more of the following powers, namely,—” ;

- (ii) the *Explanation* to the same sub-section shall be renumbered as *Explanation II* and the following shall be inserted as *Explanation I*, namely :—

“*Explanation I*.—If the interest is excessive, the Court shall presume that the transaction was substantially unfair ; but such presumption may be rebutted by proof of special circumstances justifying the rate of interest.” ;

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

“Provided that in the case of loans to agriculturists, if compound interest is charged, the Court shall presume that the interest is excessive.” ; and

- (iv) the *Explanation* to clause (d) of the same sub-section shall be omitted.

MADRAS ACT No. IX OF 1937.¹

[THE MADRAS PAYMENT OF SALARIES AND REMOVAL OF DISQUALIFICATIONS ACT, 1937.]

[Received the assent of the Governor on the 17th September 1937, first published in the Fort St. George Gazette on the 21st September 1937.]

An Act to provide for the salaries and allowances of Ministers, the Speaker and Deputy Speaker, the President and Deputy President, Parliamentary Secretaries, and members of the Madras Legislature and for the removal of certain disqualifications.

WHEREAS it is expedient to provide by an Act of the Legislature for the salaries and allowances of Ministers, of the Speaker and the Deputy Speaker of the Legislative Assembly, of the President and the Deputy President of the Legislative Council, of Parliamentary Secretaries, and of members of the Legislative Assembly and of the Legislative Council :

AND WHEREAS it is necessary to remove the disqualification imposed on Parliamentary Secretaries for being chosen as, and for being, members of the Legislative Assembly or Legislative Council :

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Payment of Salaries and Removal of Disqualifications Act, 1937. Short title and commencement

(2) This section and sections 5, 6, 8 and 9 and the provisions of sections 7, 10 and 11 in so far as they relate to sections 5, 6, 8 and 9 shall be deemed to have come into force on the 1st day of August 1937.

2. There shall be paid to the Prime Minister and to each of the other Ministers who are members of the Governor's Council of Ministers, a salary of rupees five hundred per mensem, a house-rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem. Salaries of Ministers.

3. (1) There shall be paid to the Speaker of the Legislative Assembly a salary of rupees five hundred per mensem, a house-rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem. Salaries of the Speaker and Deputy Speaker of the Legislative Assembly.

(2) There shall be paid to the Deputy Speaker of the Legislative Assembly a salary of rupees one hundred and fifty per mensem.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 17th August 1937—Part IV, pages 27–28.

522 *Payment of Salaries and Removal [1937 : Mad. Act IX
of Disqualifications*

Salaries of the President and Deputy President of the Legislative Council.

4. (1) There shall be paid to the President of the Legislative Council a salary of rupees two hundred and fifty per mensem, a house-rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem.

(2) There shall be paid to the Deputy President of the Legislative Council a salary of rupees one hundred and fifty per mensem.

Salaries of Parliamentary Secretaries.

5. There shall be paid to every Parliamentary Secretary a salary of rupees two hundred and fifty per mensem and a consolidated house-rent and conveyance allowance of rupees one hundred and fifty per mensem.

Conveyances for the Ministers and the Speaker.

6. The Provincial Government may from time to time purchase and provide suitable conveyances for the use of the Ministers and the Speaker, subject to such rules as regards their maintenance and repair as may be made by the Provincial Government.

Travelling allowances of Ministers, etc.

7. The holders of the offices referred to in sections 2 to 5 shall be entitled, while touring on public business, to travelling and daily allowances at such rates and upon such conditions as may be determined by the Provincial Government.

Removal of disqualification of Parliamentary Secretaries.

8. No person shall be disqualified for being chosen as, or for being a member of the Legislative Assembly or the Legislative Council, by reason only of the fact that he holds the office of Parliamentary Secretary and receives the emoluments in respect thereof.

Salaries and allowances of members of the Legislative Assembly and Legislative Council.

9. Every member of the Legislative Assembly or of the Legislative Council who does not hold any of the offices referred to in sections 2 to 5 shall be entitled to receive—

(a) a salary of rupees seventy-five per mensem, and

(b) travelling and daily allowances in accordance with such rules as may be made by the Provincial Government and until such rules are made, in accordance with the provisions which were applicable on the 31st March 1937 to members of the Legislative Council of the Governor of Madras.

Relinquishment of salaries and allowances.

10. The whole or any portion of the salary or allowances to which any person is entitled under this Act may be relinquished by him in writing.

Saving.

11. Nothing in this Act shall prevent a retired Government servant from drawing his pension in addition to any salary or allowances to which he may be entitled under this Act.

THE MADRAS PROHIBITION ACT, 1937.

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*(Chapter I.—Preliminary.)*MADRAS ACT No. X OF 1937.¹

[THE MADRAS PROHIBITION ACT, 1937.]

[Received the assent of the Governor on the 1st October 1937, first published in the Fort St. George Gazette on the 1st October 1937.]

An Act to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the Province of Madras.

WHEREAS it is expedient as early as possible to bring about the prohibition, except for medicinal, scientific, industrial or such like purposes, of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the Province of Madras ;

AND WHEREAS it is desirable to give effect to the abovementioned policy by introducing it in certain selected areas in the said Province and utilizing the experience gained therein for extending it to the other areas thereof ;

It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

1. (1) This Act may be called the Madras Prohibition Act, 1937. Short title, extent and commencement.

(2) It extends to the whole of the Province of Madras.

(3) (a) This section and sections 3 and 6 shall come into force in the whole of the Province of Madras at once.

(b) The rest of this Act shall come into force—

(i) in the district of Salem, at once ; and

(ii) in any other local area in the Province of Madras on such date as the Provincial Government may, by notification, appoint.

2. From the date on which the provisions of this Act other than sections 1, 3 and 6 come into force in any local area, the enactments mentioned in the Schedule shall cease to be in force in such area to the extent specified in the fourth column thereof : Repeals.

Provided that the Provincial Government may, by notification, declare that the provisions of this Act other than sections 1, 3 and 6 shall cease to be in force in any local area on such

¹ For Statement of Objects and Reasons, see Part IV of the *Fort St. George Gazette* (Extraordinary), dated 17th September 1937—pages, 24–25, for proceedings in Assembly, see *Madras Legislative Assembly Debates*, dated 25th September 1937, No. 11 of Volume III, pages 849–865 ; for Report of the Select Committee, see *ibid*, dated 27th September 1937, No. 12 of Volume III, pages 934–959 and for proceedings in Assembly, see *ibid*, pages 910–925 ; for proceedings in Council, see *Madras Legislative Council Debates*, dated 28th September 1937, No. 8 of Volume II, pages 310–328 and 336–357 and *ibid*, dated 29th September 1937, No. 9 of Volume II, pages 368–428.

(Chapter I.—Preliminary.)

dates as may be specified in the notification and thereupon the enactments mentioned in the Schedule with any subsequent statutory modifications thereof shall revive and come into force in such area with effect on and from such date.

- Definitions. 3. In this Act, unless there is something repugnant in the subject or context—
- ‘ bottle. ’ (1) “ bottle ” means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling ;
- ‘ buy ’ or
‘ buying. ’ (2) “ buy ” or “ buying ” includes any receipt including gift ;
- ‘ Collector. ’ (3) “ Collector ” means a Collector of land revenue, or any person appointed under clause (b) of section 25 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act ;
- ‘ Commis-
sioner. ’ (4) “ Commissioner ” means the officer appointed under clause (a) of section 25 ;
- ‘ cultiva-
tion. ’ (5) “ cultivation ” includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed ;
- ‘ export. ’ (6) “ export ” means—
 (a) to take out of any local area to which this Act applies to any other local area in the Province of Madras to which this Act has not been extended, or
 (b) to take out of the Province of Madras otherwise than across a customs frontier as defined by the Central Government ;
- ‘ import. ’ (7) “ import ” means—
 (a) to bring into any local area to which this Act applies from any other local area in the Province of Madras to which this Act has not been extended, or
 (b) to bring into the Province of Madras, otherwise than across a customs frontier as defined by the Central Government ;
- ‘ intoxica-
ting drug. ’ (8) “ 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 ;

(Chapter I.—Preliminary.)

- (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 Provincial Government 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.
- (9) “ liquor ” includes toddy, spirits of wine, methy-^{‘ liquor.’}lated spirits, spirits, wine, beer and all liquid consisting of or containing alcohol ;
- (10) “ local body ” means the Corporation of Madras, ^{‘ local body.’} any municipality constituted under the Madras District Municipalities Act, 1920, or any local board constituted under the Madras Local Boards Act, 1920 ;
- (11) “ manufacture ” includes every process, whether <sup>‘ manufac-
natural or artificial, by which any fermented, spiritu-
tured.’</sup>ous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquor ;
- (12) “ place ” includes also a house, shed, enclosure, ^{‘ place.’} building, shop, tent and vessel ;
- (13) “ police station ” includes any place which the <sup>‘ police
Provincial Government may, by notification, declare
station.’</sup>to be a police station for the purposes of this Act ;
- (14) “ Prohibition Officer ” means the Commissioner, <sup>‘ Prohibition
a Collector, or any officer or other person lawfully
Officer.’</sup>appointed or invested with powers under section 25 ;
- (15) “ rectification ” includes every process whereby <sup>‘ rectifica-
spirits are purified or are coloured or flavoured by
tion.’</sup>mixing any material therewith ;
- (16) “ sale ” or “ selling ” includes any transfer <sup>‘ sale ’ or
including gift ;</sup>‘ selling.’
- (17) “ spirits ” means any liquor containing alcohol ^{‘ spirits.’}and obtained by distillation (whether it is denatured or not) ;
- Explanation.*—“ Denatured ” means subjected to a process prescribed by the Provincial Government by notification for the purpose of rendering unfit for human consumption ;
- (18) “ sweet toddy ” means juice drawn into receptacles <sup>‘ sweet
treated so as to prevent any fermentation ;</sup>‘ toddy.’

II of
1930.

Madras
Act V of
1920.

Madras
Act XIV
of 1920.

(Chapter I.—Preliminary—Chapter II—Prohibitions and Penalties.)

- 'toddy.'
- (19) "toddy" means the fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree ; ¹[. . .]
- 'transport.'
- (20) "transport" means to move from one place to another within any local area to which this Act applies ²[; and
- (21) any references to a permit generally or to a permit granted under section 18, 19, or 20 shall be construed as including a reference to an 'Authority' issued under section 16-A.]

CHAPTER II.—PROHIBITIONS AND PENALTIES.

Prohibition of the manufacture of, traffic in, and consumption of, liquors and intoxicating drugs.

4. (1) Whoever,
- (a) imports, exports, transports or possesses liquor or any intoxicating drug ; or
- (b) manufactures liquor or any intoxicating drug ; or
- (c) except in accordance with the rules made by the Provincial Government in that behalf, cultivates the hemp plant (*Cannabis sativa*) ; or collects any portion of such plant from which an intoxicating drug can be manufactured ; or
- (d) taps any toddy-producing tree or permits or suffers to be tapped any toddy-producing tree belonging to him or in his possession ; or
- (e) draws toddy from any tree or permits or suffers toddy to be drawn from any tree belonging to him or in his possession ; 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 tapping of toddy or the manufacture of liquor or any intoxicating drug ; or
- (h) bottles any liquor for purposes of sale ; or
- (i) sells liquor or any intoxicating drug ; or
- (j) consumes or buys liquor or any intoxicating drug ; or
- (k) allows any of the acts aforesaid upon premises in his immediate possession,

¹ The word " and " was omitted by section 2 (i) of the Madras Prohibition (Second Amendment) Act, 1938 (Madras Act XVII of 1938).

² This was added by section 2 (ii), *ibid.*

(Chapter II.—Prohibitions and Penalties.)

shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that nothing contained in this sub-section shall apply to any act done under, and in accordance with, the provisions of this Act or the terms of any rule, notification, order, licence or permit issued thereunder.

(2) It shall be presumed until the contrary is shown—

- (a) that a person accused of any offence under clauses (a) to (j) of sub-section (1) has committed such offence in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug, for the possession of which he is unable to account satisfactorily ; and
- (b) that a person accused of any offence under clause (k) of sub-section (1) has committed such offence if an offence is proved to have been committed in premises in his immediate possession in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug.

5. 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 be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

Punishment for rendering or attempting to render denatured spirits fit for human consumption.

For the purpose of this section it shall be presumed, until the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is, or contains or has been, derived from denatured spirit.

6. Whoever prints or publishes in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other matter commending, soliciting the use of, or offering any liquor

Prohibition of advertisements.

(Chapter II.—Prohibitions and Penalties.)

or intoxicating drug other than liquor or drugs exempted under section 16, ¹[. . .] shall be punished with fine which may extend to one thousand rupees :

Provided that this section shall not apply—

(a) to plain catalogues and price lists which may be generally or specially approved by the Commissioner ;
or

²[(b) to advertisements in medical journals, or to notices and literature circulated exclusively to members of the medical profession, if such advertisements, notices or literature relate to any liquor or intoxicating drug which has been specially approved as of medicinal value—

(i) by the Medical Council established by the Madras Medical Registration Act, 1914 ; or

Madras
Act IV of
1914.

(ii) by any other Medical Council which has been established under any law for the time being in force in any other Province in British India or in any Indian State, or which has been recognized by the Government of such Province or State ; or

(iii) by such authority in respect of Indian Medicine as may be notified by the Provincial Government ;
or]

²[(c) to the normal circulation within the Province of newspapers, periodicals and books printed and published in accordance with law outside the Province ;
or

²[(d) to any advertisement contained in a newspaper printed and published in the Province before the first day of January 1938.

Punishment
for cons-
piracy.

7. When two or more persons agree—

(a) to commit or cause to be committed any offence under sub-section (1) of section 4 or under section 5, or

(b) to evade or nullify the provisions of this Act in any area where it is in force,

each of such persons shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in an area to which this Act has not been extended, be punished with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both.

¹ The words and figures " or specially approved as of medicinal value by the Medical Council established by the Madras Medical Registration Act, 1914 " were omitted by section 2 (i) of the Madras Prohibition (Amendment) Act, 1938 (Madras Act X of 1938).

² Clauses (b) and (c) were relettered (c) and (d) respectively, and clause (b) was inserted, by section 2 (ii), *ibid.*

(Chapter II.—Prohibitions and Penalties.)

8. Any officer or person exercising powers under this Act, ^{Punishment for} who— ^{vexatious search or arrest.}

- (a) without reasonable ground of suspicion, enters or searches or causes to be searched, any closed place ; or
- (b) 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
- (c) vexatiously and unnecessarily detains, searches or arrests any person ; or
- (d) maliciously and falsely lays information leading to a search, seizure, detention or arrest ; or
- (e) in any other way maliciously exceeds his lawful powers,

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

9. Any officer or person exercising powers under this Act, ^{Punishment for} who vexatiously and unnecessarily delays forwarding to a ^{for} ^{vexatious} ^{delay.} Prohibition Officer or to the officer in charge of the nearest police station as required by section 38, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

10. Any officer or person exercising powers under this ^{Punishment for abetment of escape of} Act who— ^{persons arrested, etc.}

- (a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or
- (b) 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, and

any other officer of the Provincial Government or of a local body who abets the commission of any offence against this Act,

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

11. Whoever is guilty of any wilful act or intentional ^{Punishment for offences not otherwise provided for.} omission in contravention of any of the provisions of this Act or of any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punished with fine which may extend to two hundred rupees.

(Chapter II.—Prohibitions and Penalties. Chapter III.—
Exemptions and Licences.)

Punishment
for abetment
of offence
against Act
in area to
which Act
is not ex-
tended.

12. Where any offence against this Act is committed in any area to which it has been extended, whoever commits, or attempts to commit, or abets the commission of, any of the acts making up the offence shall be liable to be punished therefor, whether such commission, attempt or abetment takes place within or outside such area.

Things
liable to
confiscation.

13. In any case in which an offence has been committed against this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

Confiscation
how ordered.

14. (1) When the offender is convicted or when the person charged with an offence against this Act is acquitted, but the Court decides that anything is liable to confiscation, such confiscation may be ordered by the Court.

(2) When an offence against 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 Collector or other Prohibition Officer in charge of the district or by any other officer authorized by the Provincial Government in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of fifteen days 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.

Offences
under Act to
be cogniz-
able.

15. All offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to them. v of 1898.

CHAPTER III.—EXEMPTIONS AND LICENCES.

Power to
notify
exemptions.

16. (1) The Provincial Government may, by notification and subject to such conditions as they think fit, exempt any specified liquor or intoxicating drug or article containing such liquor or drug from the observance of all or any of the provisions of this Act on the ground that such liquor, drug or article is required for a medicinal, scientific, industrial or such like purpose.

(2) When issuing a notification under sub-section (1), the Provincial Government shall have power to provide that a breach of any of the conditions subject to which the exemption

(Chapter III.—Exemptions and Licences.)

is notified shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

¹ [16-A. The Provincial Government shall make suitable provision for issuing 'Authorities' to persons and institutions for the possession and use of such liquor as may be required by them for any *bona fide* religious purpose in accordance with ancient custom, under such terms and conditions, and penalties for infringement, as may be prescribed.]

Authorities for *bona fide* religious purposes.

17. Until the Provincial Government by notification otherwise direct, the provisions of this Act shall not be deemed to apply—

Exemption of *bona fide* travellers and lawful consignments.

- (a) to liquor in the possession of *bona fide* travellers for their own personal use while passing through any local area in which this Act is in force ; or
- (b) to lawful consignments of liquor or intoxicating drugs carried by a railway administration through or into any such local area.

18. The Provincial Government or subject to the control of the Provincial Government, the Collector, may issue licences to any person or in respect of any institution whether under the management of Government or not, for the manufacture, export, import, transport, sale or possession of any liquor, intoxicating drug or article containing such liquor or drug, on the ground that such liquor, drug or article is required by such person or in respect of such institution for a *bona fide* medicinal, scientific, industrial or such like purpose.

Licences for *bona fide* medicinal or other purposes.

19. Subject to the control of the Provincial Government, the Collector or any officer empowered by him may issue—

Licences for tapping for sweet toddy, etc.

- (a) licences for the tapping of any trees for sweet toddy for consumption thereof without fermentation or for the manufacture of jaggery therefrom, or
- (b) permits for the possession, transport or sale of such toddy.

20. The Provincial Government or any officer empowered by them in this behalf may issue—

Permits and licences.

- (a) permits authorizing any person to consume and possess for personal consumption any liquor or intoxicating drug ;

¹ This section was inserted by section 3 of the Madras Prohibition (Second Amendment) Act, 1938 (Madras Act XVII of 1938).

(Chapter III.—Exemptions and Licences.)

- ¹ [* * * * * *].
- [(b)] licences to any institution to possess liquor and issue it to such of its members as hold permits under clause (a) ; and
- ¹ [(c)] licences to any person in charge of a restaurant car attached to a railway train to possess liquor and serve it to *bona fide* passengers travelling by the train.

Form and conditions of licences and permits.

21. Every licence or permit granted under section 18, 19 or 20 shall—

(1) be granted on payment of such fees, if any, for such period, and subject to such restrictions and limitations and on such conditions ; and

(2) be in such form and contain such particulars as the Provincial Government may direct either generally or in any particular case.

Counterpart agreement to be executed by licensees.

22. Every person taking out any licence or permit under section 18, 19 or 20 may be required to execute a counterpart agreement in conformity with the tenor of his licence or permit, and to give such security for the performance of his agreement as the Collector may require.

Power to cancel or suspend licences and permits.

23. (1) The Collector may cancel or suspend any such licence or permit—

(a) if any fee 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 of any cognizable and non-bailable offence ; or

(d) if the conditions of such licence or permit provide for its cancellation or suspension at will ; or

(e) if the purpose for which the licence or permit is granted ceases to exist.

(2) The Provincial Government may cancel or suspend any such licence or permit without assigning the aforesaid or any other reasons.

Penalty for breach of the conditions of licences and permits.

24. 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

¹ Clause (b) was omitted, and clauses (c) and (d) were relettered (b) and (c) respectively by section 4 of the Madras Prohibition (Second Amendment) Act, 1938 (Madras Act XVII of 1938).

(Chapter III.—*Exemptions and Licences.* Chapter IV.—*Establishment and Control.*)

or conditions of such licence or permit, such holder shall, in addition to the cancellation or suspension of the licence or permit granted to him, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both, unless he shall establish that all due and reasonable precautions were exercised by him to prevent any such breach.

Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence or permit, be liable to the same punishment.

CHAPTER IV.—ESTABLISHMENT AND CONTROL.

25. The Provincial Government may, from time to time, by notification—

- Appointment of officers and withdrawal of powers.
- (a) appoint an officer to exercise all the powers of a Collector under this Act in all local areas in which it is in force and to have the control of the administration of the provisions of this Act in such areas ;
 - (b) appoint any person other than the Collector of land revenue to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the Provincial Government may from time to time direct ;
 - (c) withdraw from the Commissioner or the Collector of land revenue any or all of the powers conferred on him by this Act ;
 - (d) appoint paid or honorary officers with such designations, powers and duties as the Provincial Government may think fit ;
 - (e) order that all or any of the powers and duties assigned to any person under clause (d) shall be exercised and performed by any existing Government official or any other person ; and
 - (f) delegate to any Prohibition Officer all or any of their powers under this Act.

26. (1) The Collector or other Prohibition Officer in charge of a district may constitute prohibition committees in every taluk thereof to assist him in carrying out the objects of this Act in the district.

(2) Every member of a prohibition committee shall observe the working of this Act in his taluk and report thereon and on every matter connected therewith at the prescribed intervals and at any other time he thinks fit, to the Collector or other Prohibition Officer aforesaid.

(Chapter IV.—Establishment and Control. Chapter V.—
Powers, Duties and Procedure of officers, etc.)

(3) Every member of a prohibition committee shall be entitled to give information at any police station in his taluk regarding the commission or suspected commission of any offence against this Act in such taluk, and the officer in charge of such station shall take action on such information and investigate the case in the manner laid down in the Code of V of 1898. Criminal Procedure, 1898.

Power of
Provincial
Government
to authorize
officers to
admit
persons
arrested to
bail.

27. The Provincial Government 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 officers or persons mentioned in section 32 throughout the Province or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed, before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.

CHAPTER V.—POWERS, DUTIES AND PROCEDURE OF
OFFICERS, ETC.

Issue of
search
warrants.

28. If any Collector, Prohibition Officer or Magistrate upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under subsection (1) of section 4 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. Any person who has been entrusted with the execution of such a warrant may detain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act :

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer as the case may be.

Before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Collector, Prohibition Officer or Magistrate.

Powers of
entry and
search
without
warrant.

29. Whenever a Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, any Police Officer not below the rank of sub-inspector, any officer in charge of a police station, or any other paid or honor-ary officer authorized by the Provincial Government in this

(Chapter V.—Powers, Duties and Procedure of officers,
etc.)

behalf has reason to believe that an offence under sub-section (1) of section 4 has been committed and that the delay occasioned by obtaining a search warrant under section 28 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 thinks 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 a Police or Prohibition Officer as the case may be.

30. The Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, or any Police or other paid or honorary officer authorized by the Provincial Government in this behalf, may enter and inspect, at any time by day or by night, any place in which it is reasonably suspected that any person draws toddy or carries on the manufacture of any other liquor or any intoxicating drug, or stores any liquor or intoxicating drug ; and may enter and inspect, at any time, any place in which any liquor or intoxicating drug is reasonably suspected to be kept for sale by any person ; and may examine, test, measure or weigh any material, still, utensil, implement, apparatus, liquor or intoxicating drug found in such place.

Power to enter and inspect places of manufacture and sale.

31. If any officer empowered to make an entry under section 28, 29 or 30 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 obstacles to his entry into any such place.

Power to use force in case of resistance to entry.

32. Any Prohibition Officer, any officer of the Police or Land Revenue departments, and any other person authorized in that behalf—

Arrest of offenders and seizure of contraband liquor and articles without warrant.

- (a) may arrest without warrant any person found committing an offence punishable under sub-section (1) of section 4 ;
- (b) may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act ; and
- (c) 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 article to be, or to be concealed :

(Chapter V.—Powers, Duties and Procedure of officers, etc.)

Provided that if the officer or person making the arrest under this section be not empowered under section 27 to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if such an officer is known to be 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 a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the case.

Arrest of persons refusing to give name or giving false name.

33. Any person, who may be accused or reasonably suspected of committing an offence against this Act, and who on demand made by any Prohibition Officer or any officer of the Police or Land Revenue departments or by any other person authorized in that behalf 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.

34. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Duty of officials of all departments and local bodies to assist.

35. Officials of all departments of the Provincial Government and of all local bodies shall be legally bound to assist any Prohibition or Police Officer in carrying out the provisions of this Act.

Offences to be reported, etc.

36. Every official employed by the Provincial Government or by any local body, other than a Police or Prohibition Officer, shall be bound to give immediate information at the nearest police station or to a Prohibition Officer, of all breaches of any of the provisions of this Act which may come to his knowledge ; and all such officials 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.

37. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land or house-property on or in which there shall be any tapping for toddy or manufacture of liquor or intoxicating drugs shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an officer of the Police or Land Revenue departments immediately the same shall have come to their knowledge.

(Chapter V.—Powers, Duties and Procedure of officers, etc.)

38. (1) When any person is arrested under the provisions of section 28, 29, 32 or 33, the person arresting him shall, unless bail shall have been accepted under the provisions of section 28, 29 or 32, forthwith forward him to the nearest police station or to a Prohibition Officer, with a report of the circumstances under which such arrest was made.

Persons arrested how to be dealt with.

(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 himself, or before the Prohibition Officer if any, or any Police Officer within the limits of the jurisdiction of which Prohibition or Police Officer, 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 of Police station officer.

(3) On any such person being brought in custody before a Prohibition or Police Officer as aforesaid or appearing before such officer on bail or when such officer as aforesaid has himself made the arrest such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to inquire into or try the case :

Procedure of Police or Prohibition Officer empowered to inquire.

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 officer, he shall, if sufficient bail be tendered for the appearance of the person arrested, admit such person to bail to appear on any subsequent day before himself or any other officer having jurisdiction to inquire into the case.

39. It shall be the duty of any officer arresting any person under the powers conferred by section 28 or 29 and of any officer in charge of a police station or any Police or Prohibition Officer before whom a person arrested is brought or appears under the provisions of section 38 to release such person on bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or before a Magistrate as the case may be.

Persons arrested to be admitted to bail.

40. (1) 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 Police or Prohibition Officer before whom he was bailed to attend, or by the Magistrate, as the case may be :

Bond of accused and sureties.

Provided that the officer admitting any such person to bail may in his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

(Chapter V.—Powers, Duties and Procedure of officers, etc.)

(2) The Provincial Government 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 Prohibition Officer.

41. When by reason of default of appearance of a person bailed to appear before a Police or Prohibition Officer, 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 inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898, 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 1938.

Power of Police or Prohibition Officers to summon witnesses.

42. Any Police or Prohibition Officer holding an inquiry in the manner provided in section 38 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 :

Provided that no such officer shall so summon any person to appear before him if the journey to be made for complying with such summons exceeds ten miles by road or fifty miles by rail or such other limits as the Provincial Government may fix.

Terms of summons.

43. Every summons issued under section 42 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.

44. 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 to writing and shall be signed by such officer.

When attendance of witnesses to be dispensed with, and procedure in such cases.

45. It shall be lawful for a Police or Prohibition Officer, 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 44 shall apply to such answers.

Power of Police or Prohibition Officer to summon suspected persons.

46. Any Police or Prohibition Officer 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 38 to 45 shall become applicable.

(Chapter V.—Powers, Duties and Procedure of officers, etc.)

The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 42 to 45 before summoning the person suspected.

47. 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 a Police or Prohibition Officer and to any person summoned by him to appear under the provisions of this Act.

Law relating to criminal courts as to summoning of witnesses to apply.

48. When a Police or Prohibition Officer forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure, 1898.

Report of Police or Prohibition Officer to give jurisdiction to competent Magistrate.

V of 1898.

49. When a Police or Prohibition Officer forwards in custody any person accused of an offence against this Act to the Magistrate having jurisdiction to inquire into or 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, 1898, 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.

Powers of Police and Prohibition Officers to cause attendance of witnesses before Magistrate.

V of 1898.

50. 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 a Police or Prohibition Officer may be and from thence to the court having jurisdiction to try the case.

Accused not to be detained in custody for a longer period than twenty-four hours without special authority.

51. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of a Prohibition Officer, all articles seized under this Act which may be delivered to them ; and shall allow any

Police to take charge of articles seized.

(Chapter V.—Powers, Duties and Procedure of officers, etc.
Chapter VI.—Rules and Notifications.)

Prohibition 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.

Power of District Magistrate to transfer cases.

52. The District Magistrate shall have power to transfer any case under this Act pending inquiry or trial before any Magistrate or Officer in the district to any other Magistrate or Officer therein.

Operation of the Code of Criminal Procedure, 1898.

53. Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure, 1898.

V of 1898.

CHAPTER VI.—RULES AND NOTIFICATIONS.

Power to make rules.

54. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

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

- (a) for the issue of licences and permits and the enforcement of the conditions thereof ;
- (b) prescribing the powers to be exercised and the duties to be performed by paid and honorary Prohibition Officers in furtherance of the objects of the Act ;
- (c) determining the local jurisdiction of Police and Prohibition Officers in regard to inquiries and the exercise of preventive and investigating powers ;
- (d) authorizing any officer or person to exercise any power or perform any duty under this Act ;
- (e) prescribing the powers and duties of prohibition committees and the members thereof and the intervals at which the members of such committees shall make their reports ;
- (f) regulating the delegation by the Commissioner or by Collectors or other district officers of any powers conferred on them by or under this Act ;
- (g) regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom ;
- (h) declaring how denatured spirit shall be manufactured ;
- (i) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this

(Chapter VI.—Rules and Notifications. Chapter VII.—
Legal Proceedings.)

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 ;

- (j) for the grant of batta to witnesses, and of compensation for loss of time to persons released under subsection (3) of section 38 on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted ;
- (k) regulating the power of Police and Prohibition Officers to summon witnesses from a distance under section 42 ; and
- (l) for the disposal of articles confiscated and of the proceeds thereof.

55. All rules made and notifications issued under this Act shall be published in the Official Gazette and upon such publication, shall have effect as if enacted in this Act.

Publication of rules and notifications.

CHAPTER VII.—LEGAL PROCEEDINGS.

56. No action shall lie against the Crown or against any Prohibition, Police or other officer, for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Act.

Actions against the Crown, etc.

57. All courts shall take judicial notice of all notifications and orders conferring powers, imposing duties and making appointments under this Act.

Courts to take judicial notice of appointments.

SCHEDULE.

(See section 2.)

Year.	Number.	Short title or subject.	Extent of repeal.
(1)	(2)	(3)	(4)
<i>Acts of the Governor of Fort St. George in Council.</i>			
1886	I	The Madras Abkari Act, 1886	The whole.
1905	I	The Madras Abkari (Amendment) Act, 1905.	Do.
1913	I	The Madras Abkari (Amendment) Act, 1913.	Do.
1915	I	The Madras Abkari (Amendment) Act, 1915.	Do.
<i>Act of the Madras Legislature.</i>			
1929	XVIII	The Madras Abkari (Amendment) Act, 1929.	The whole.
<i>Act of the Indian Legislature.</i>			
1930	II	The Dangerous Drugs Act, 1930	So much of Schedule II as relates to the Madras Abkari Act, 1886.

MADRAS ACT No. XI OF 1937.¹

[THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1937.]

[Received the assent of the Governor on the 4th October 1937, first published in the Fort St. George Gazette on the 5th October 1937.]

An Act further to amend the Madras Local Boards Act, 1920, and the Madras Local Boards and Elementary Education (Amendment) Act, 1934, for certain purposes.

WHEREAS it is expedient further to amend the Madras Local Boards Act, 1920, and the Madras Local Boards and Elementary Education (Amendment) Act, 1934, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras Act
XIV of
1920.
Madras Act
II of 1934.

Short title. 1. This Act may be called the Madras Local Boards (Amendment) Act, 1937.

Amendment of rule 7 of the Schedule, Madras Act II of 1934. 2. Clause (cc) of rule 7 of the Schedule to the Madras Local Boards and Elementary Education (Amendment) Act, 1934, shall be omitted.

Madras Act
II of 1934.

Nominated members of District Boards to vacate office and co-optation of representatives of women and of minority communities. 3. All persons nominated to any district board under clause (cc) aforesaid shall cease to hold office with effect from the commencement of this Act, and the Provincial Government may, if they think fit, notwithstanding anything contained in sub-section (3) of section 9 of the Madras Local Boards Act, 1920, direct the elected members of the district board to co-opt as its members—

Madras Act
XIV of 1920.

(a) one representative of women, and

(b) one representative each of such of the communities mentioned in clauses (a) to (e) of sub-section (1) of the said section 9 as the Provincial Government may determine :

Provided that no such direction shall be given :

in the case of women, if a woman is a member of the district board, and

in the case of a community, if a member of that community is a member of the district board ;

having been elected thereto to fill a seat reserved for women or for the community concerned, as the case may be.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 21st September 1937—Part IV, page 37.

4. No person shall be co-opted as a member of a district board under this Act unless the name of such person appears on its electoral roll and such person is otherwise qualified for election to the district board under Chapter IV of the Madras Local Boards Act, 1920.

Qualifications to be possessed by co-opted members.

Madras Act XIV of 1920.

5. Members co-opted to any district board under this Act shall, subject to the provisions of sub-section (2) of section 54 and sections 56, 57 and 59 of the Madras Local Boards Act, 1920, and of section 8 of this Act, hold office until the date on which the elected members of the district board would vacate their offices by efflux of time.

Term of office of co-opted members.

Madras Act XIV of 1920.

6. If a member co-opted to any district board under this Act vacates office before the date referred to in section 5, the elected members of the district board shall co-opt another person to fill the vacancy. The person co-opted shall be a woman or a person belonging to the community concerned, as the case may be.

Casual vacancies.

Explanation.—The provisions of sections 4 and 5 shall apply to a member co-opted under this section.

7. The procedure for the election of persons who are not members of a district board to the standing committees referred to in section 27-A of the Madras Local Boards Act, 1920, shall *mutatis mutandis* apply to the co-option of members by a district board under this Act.

Procedure.

Madras Act XIV of 1920.

8. Notwithstanding anything contained in section 3-A of the Madras Local Boards Act, 1920, the Provincial Government shall have power, at any time by notification, to amalgamate two or more districts which were constituted from a single district by a notification under that section, and thereupon the following provisions shall apply :—

Amalgamation of bifurcated district boards.

Madras Act XIV of 1920.

(i) All the elected members of each of the district boards which are amalgamated (hereinafter referred to as the old boards) who were holding office immediately before the date of issue of the notification under this section shall, with effect on and from such date, be deemed to have become members of the amalgamated district board (hereinafter referred to as the new board), and the co-opted members, if any, of the old boards shall, with effect on and from the same date, be deemed to have vacated their offices.

(ii) The members of the new board shall, subject to the provisions of sub-section (2) of section 54 and sections 56, 57 and 59 of the Madras Local Boards Act, 1920, hold office until the date on which they would have

Madras Act XIV of 1920.

vacated their offices on the old boards by efflux of time if a notification under this section had not been issued.

Section 7 of the Madras Local Boards Act, 1920, in so far as it fixes the maximum number of members of a district board shall not apply to the new board until the date aforesaid. Madras Act
XIV of 1920.

(iii) The circles of the old boards as existing on the date of issue of the notification under this section shall be the circles of the new board, unless and until the Provincial Government otherwise direct by a notification under section 47 of the Madras Local Boards Act, 1920. Madras Act
XIV of 1920.

(iv) If any vacancy in the office of an elected member of any of the old boards existed at the time of issue of the notification under this section, a member shall be elected to the new board at a casual election by the circle concerned.

(v) If any vacancy in the office of a member of the new board occurs otherwise than by efflux of time, such vacancy shall be filled by a casual election by the circle concerned, and any person elected at such an election shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(vi) The presidents and vice-presidents of the old boards holding office on the date of issue of the notification under this section shall be deemed to have vacated their respective offices with effect on and from such date, and the members of the new board shall, as soon as may be thereafter,—

(a) meet for the election of a president on such date as may be fixed in that behalf by the Collector of the district ; and

(b) meet for the election of the vice-president on such date as may be fixed in that behalf by the president so elected.

Power to
remove
difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, by order, as occasion may require, do anything which appears to them to be necessary to remove the difficulty.

MADRAS ACT No. XII OF 1937.¹[THE MADRAS REGULATION OF THE SALE OF
CLOTH ACT, 1937.]

[Received the assent of the Governor on the 7th October 1937,
first published in the Fort St. George Gazette on the 12th
October 1937.]

An Act to regulate the trade of dealers in cloth
within the Province of Madras.

WHEREAS it is expedient to regulate the trade of dealers in
cloth and articles of wearing apparel made of cloth within
the Province of Madras ; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Regulation of the Short title
and extent.
Sale of Cloth Act, 1937.

(2) It extends to the whole of the Province of Madras.

2. (1) Every person who, on the date of the commence- Dealing in
cloth to be
licensed.
ment of this Act, is carrying on the business of a dealer in
cloth or in articles of wearing apparel made of cloth, in the
Province shall, within two months of such date, obtain a licence
under this Act for carrying on such business.

(2) Every person who after the date of the commence-
ment of this Act starts the business of a dealer in cloth or in
articles of wearing apparel made of cloth in the Province shall,
within two months of starting such business, obtain a licence
under this Act for carrying on such business.

Explanation.—Where a dealer has more than one shop
or place of business whether in the same town or village or in
different towns and villages, he shall obtain a separate licence
in respect of each shop or place of business.

3. Every licence granted under this Act shall expire on Expiry and
renewal of
licence.
the last day of the year for which it was granted but may be
renewed from year to year.

Explanation.—In this section ‘year’ shall mean the
financial year.

4. (1) The fee payable for the grant or renewal of a licence Fee for
licence.
in respect of the business at any one shop or place of business
shall be—

(a) two rupees, where the monthly turnover of busi-
ness in that shop or place of business as determined
by rules made under this Act, does not exceed three
thousand rupees ; and

(b) five rupees, where such monthly turnover exceeds
three thousand rupees :

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 14th September 1937, Part IV, pages 31–32.

Provided that no fee shall be levied for the grant or renewal of a licence in respect of the business carried on at any shop or place of business, if it relates exclusively to cloth woven on hand-looms or articles of wearing apparel made therefrom and the dealer declares in writing that he has not sold and will not sell any other cloth or articles of wearing apparel made of cloth at such shop or place of business during the period of currency of the licence.

Explanation.—In this sub-section ‘monthly turnover’ means the aggregate amount for which sales are effected in a month.

(2) Where a licence is granted or renewed free of fee under the proviso to sub-section (1), the licence shall become void if any cloth not woven on hand-looms or any article of wearing apparel not made therefrom is sold at the place mentioned in the licence, and no cloth or article of wearing apparel made of cloth shall thereafter be sold at such place unless a fresh licence has been obtained on payment of the fee specified in sub-section (1).

5. The provisions of this Act shall be applicable *mutatis mutandis* to hawkers of cloth or of articles of wearing apparel made of cloth, provided however that a hawker shall be liable to obtain only one licence for a financial year, whatever his area of operations may be.

Penalty for failure to obtain licence.

6. A person who in respect of any financial year fails to obtain a licence as required by sub-section (1) or sub-section (2) of section 2, or to renew a licence before the date on which it expires, or to obtain a fresh licence as required by sub-section (2) of section 4, shall be liable to pay in respect of such year twice the amount of the fee payable by him under sub-section (1) of section 4, or if no fee is so payable, a fee of one rupee ; and any amount payable under this section may be recovered as if it were an arrear of land revenue. On payment or recovery of the amount prescribed by this section, a licence shall be deemed to have been granted to or renewed in favour of the person aforesaid for the financial year, to which such payment or recovery relates.

Power to make rules.

7. The Provincial Government shall have power to make rules—

- (a) prescribing the authority competent to grant or renew licences under this Act ;
- (b) for determining the monthly turnover for the purpose of levying the licence fee ;
- (c) for the recovery of any amounts due under this Act ;
- and
- (d) generally for carrying into effect the purposes of this Act.

MADRAS ACT No. XIII OF 1937.¹

[THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) ACT, 1937.]

[Received the assent of the Governor on the 7th October 1937, first published in the Fort St. George Gazette on the 12th October 1937.]

An Act further to amend the Madras State Aid to Industries Act, 1922, for certain purposes.

Madras Act V of 1923.

WHEREAS it is expedient further to amend the Madras State Aid to Industries Act, 1922, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras State Aid to Industries (Amendment) Act, 1937. Short title.

Madras Act V of 1923.

2. After section 1 of the Madras State Aid to Industries Act, 1922 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

[Vide p. 863, Vol. III.]

Insertion of new section I-A in Madras Act V of 1923.

3. For clause (c) of section 6 of the said Act, the following clause shall be substituted, namely :—

[Vide p. 865, Vol III.]

Amendment of section 6, Madras Act V of 1923.

4. In section 16 of the said Act, after the words “ No subsidy ” in the second paragraph, the words “ to an industry other than a cottage industry ” shall be inserted.

Amendment of section 16, Madras Act V of 1923.

5. In section 20 of the said Act, after clause (d), the following clause shall be added, namely :—

[Vide p. 871, Vol. III.]

Amendment of section 20, Madras Act V of 1923.

MADRAS ACT No. XIV OF 1937.²

[THE MADRAS REVENUE RECOVERY AND CITY LAND-REVENUE (AMENDMENT) ACT, 1937.]

[Received the assent of the Governor on the 7th October 1937, first published in the Fort St. George Gazette on the 12th October 1937.]

An Act further to amend the Madras Revenue Recovery Act, 1864, and the Madras City Land-Revenue (Amendment) Act, 1867, for certain purposes.

Madras Act II of 1864.

Madras Act VI of 1867.

WHEREAS it is expedient further to amend the Madras Revenue Recovery Act, 1864, and the Madras City Land-Revenue (Amendment) Act, 1867, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras Revenue Recovery and City Land-Revenue (Amendment) Act, 1937. Short title.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 14th September 1937—Part IV, page 33.

² For Statement of Objects and Reasons, see Fort St. George Gazette Extraordinary, dated 17th September 1937—Part IV, pages 2-3.

550 *Revenue Recovery and City Land* [1937 : Mad. Act XIV
Revenue (Amendment)

City Municipal, District [1937 : Mad. Act XV
Municipalities and Local Boards (Amendment)

Insertion of
new section
36-A in
Madras Act
II of 1864.

2. After section 36 of the Madras Revenue Recovery Act, Madras Act 1864, the following section shall be inserted, namely :—
[*Vide p. 13, Vol. II.*]

Insertion of
new section
18-A in
Madras Act
VI of 1867.

3. After section 18 of the Madras City Land-Revenue Madras Act (Amendment) Act, 1867, the following section shall be inserted, VI of 1867. namely :—
[*Vide p. 37, Vol. II.*]

Operation of
Act and
savings.

4. (1) The Madras Revenue Recovery Act, 1864, shall, in Madras Act its application to the Province of Madras, be read and con- II of 1864. strued as if section 36-A had formed part of that Act from its commencement.

(2) The Madras City Land-Revenue (Amendment) Act, Madras Act 1867, shall be read and construed as if section 18-A had formed VI of 1867. part of that Act from its commencement.

(3) Nothing contained in this Act shall be deemed to invalidate any decree or order passed by a Civil Court before the commencement of this Act which has become final.

MADRAS ACT No. XV OF 1937.¹

[THE MADRAS CITY MUNICIPAL, DISTRICT MUNICIPALITIES
AND LOCAL BOARDS (AMENDMENT) ACT, 1937.]

[*Received the assent of the Governor on the 7th October 1937,
first published in the Fort St. George Gazette on the 12th
October 1937.*]

An Act further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, and the Madras Local Boards (Amendment) Act, 1935, for certain purposes.

WHEREAS it is expedient further to amend the Madras City Madras Act Municipal Act, 1919, the Madras District Municipalities Act, IV of 1919. Madras Act 1920, the Madras Local Boards Act, 1920, and the Madras Madras Act V of 1920. Local Boards (Amendment) Act, 1935, for the purposes herein- Madras Act after appearing ; It is hereby enacted as follows :— XIV of 1920.

Short title.

1. This Act may be called the Madras City Municipal, Madras Act District Municipalities and Local Boards (Amendment) Act, XIII of 1937. 1935.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette Extra-ordinary*, dated 25th September 1937—Part IV, page 3.

Municipalities and Local Boards (Amendment)

2. Notwithstanding anything contained in sections 55-A Amendment of Madras Act IV of 1919. and 414 of the Madras City Municipal Act, 1919, the Provincial Government shall have power from time to time to extend the term of office of the fifteen divisional councillors who are due to vacate their offices at noon on the first day of November 1937 up to such date not being later than the 31st day of March 1938 as the Provincial Government may fix and to postpone the elections to the divisional seats accordingly.

3. (1) Notwithstanding anything contained in sections 8 Amendment of Madras Act V of 1920. and 368 of the Madras District Municipalities Act, 1920, the Provincial Government shall have power from time to time to extend the term of office of the councillors of every municipality, who are due to vacate their offices at noon on the 1st day of November 1937, up to such date not being later than the 31st day of March 1938 as the Provincial Government may fix and to postpone the elections to such municipalities accordingly.

(2) Where any municipality has been constituted for the first time or has to be reconstituted after a dissolution or supersession, the Provincial Government shall have power, notwithstanding anything contained in the Madras District Municipalities Act, 1920, from time to time to postpone the constitution or reconstitution of the municipality and the elections thereto up to such date not being later than the 31st day of March 1938, as the Provincial Government may fix.

4. (1) Notwithstanding anything contained in sections 11 Amendment of Madras Act XIV of 1920. and 240 of the Madras Local Boards Act, 1920, or in section 7 Acts XIV of Madras Act XIII of 1920 and XIII of 1935. of the Madras Local Boards (Amendment) Act, 1935, the Provincial Government shall have power from time to time to extend the term of office of the members of every local board situated in any of the districts included in Group I of the Schedule to the Madras Local Boards (Amendment) Act, 1935, up to such date not being later than the 31st day of March 1938 as the Provincial Government may fix and to postpone the elections to such local boards accordingly.

(2) Where any local board has been constituted for the first time or has to be reconstituted after a dissolution or supersession, the Provincial Government shall have power, notwithstanding anything contained in the Madras Local Boards Act, 1920, from time to time to postpone the constitution or reconstitution of the local board and the elections thereto up to such date not being later than the 31st day of March 1938, as the Provincial Government may fix.

Madras Act XIV of 1920.

MADRAS ACT No. I OF 1938.¹

[THE MADRAS CITY MUNICIPAL (AMENDMENT) ACT, 1938.]
An Act further to amend the Madras City Municipal Act, 1919, for certain purposes.

[Received the assent of the Governor on the 12th February 1938, first published in the Fort St. George Gazette on the 15th February 1938.]

WHEREAS it is expedient further to amend the Madras City Municipal Act, 1919, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Municipal (Amendment) Act, 1938.

Amendment of section 85, Madras Act IV of 1919.

2. In sub-section (1) of section 85 of the Madras City Municipal Act, 1919—

(i) in the opening paragraph, after the words “ who shall be heads of departments working under the Commissioner ” the following sentence shall be added, namely :—

[Vide p. 94, Vol. III.]

(ii) in clause (b) of the proviso, the words “ shall not be less than five hundred rupees and ” shall be omitted ;

(iii) in clause (c) of the proviso, the words “ shall not be less than four hundred rupees and ” shall be omitted ; and

(iv) in clause (d) of the proviso, the words “ shall not be less than two hundred and fifty rupees and ” shall be omitted.

MADRAS ACT No. II OF 1938.²

[THE MADRAS CITY MUNICIPAL, DISTRICT MUNICIPALITIES AND LOCAL BOARDS (AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 12th February 1938, first published in the Fort St. George Gazette on the 15th February 1938.]

An Act further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Municipal, District Municipalities, and Local Boards (Amendment) Act, 1938.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette Extraordinary, dated 20th January 1938—Part IV, page 2.

² For Statement of Objects and Reasons, see Fort St. George Gazette Extraordinary, dated 20th January 1938—Part IV, page 15.

**1938 : Mad. Act II] City Municipal, District Municipalities 553
and Local Boards (Amendment)**

Madras Act
IV of 1919.

2. In the Madras City Municipal Act, 1919, the following amendments shall be made, namely :—

**Amendment
of Madras
Act IV of
1919.**

- (1) In section 3—
 - (i) clause (1) shall be omitted and clause (1-A) shall be renumbered as clause (1) ; and
 - (ii) after clause (25-A) the following clause shall be inserted, namely :—

[*Vide p. 60, Vol. III.*]
- (2) In sections 5 (1) (a), 45 (2) (a) and (b) and 46 (1), for the word “ Adi-Dravidas ” wherever it occurs, the words “ members of the scheduled castes ” shall be substituted.
- (3) In section 46 (2) for the words “ an Adi-Dravida ”, the words “ a member of the scheduled castes ” shall be substituted.
- (4) In section 46-A, for the word “ Adi-Dravidas ”, the words “ members of the scheduled castes ”, for the words “ Adi-Dravida electors ” in both the places where they occur, the words “ electors of such castes ”, and for the words “ an Adi-Dravida ”, the words “ a member of any such caste ” shall be substituted.
- (5) For sections 46-B, 47, 48, 49 and 49-A, the following sections shall be substituted, namely :—

[*Vide pp. 78-80, Vol. III.*]
- (6) In section 51 (1) (b), for the word “ Adi-Dravidas ”, the words “ members of the scheduled castes ” and for the words “ an Adi-Dravida ”, the words “ a member of any such caste ” shall be substituted.
- (7) In section 51 (1) (c), for the words “ labour constituency ”, the words “ labour electorate ” and for the words “ constituencies for labour ”, the words “ labour electorates ” shall be substituted.
- (8) In section 51 (1) (d), for the words “ constituencies for labour ”, the words “ labour electorates ” and for the words “ member possessing the residential qualification under section 49-A of any of the bodies referred to in clauses (b), (c), (d) and (g) of sub-section (1) of section 5 ”, the words “ member of any of the bodies referred to in clauses (b), (c), (d) and (g) of sub-section (1) of section 5 who has resided in the City for ninety days in the aggregate in the year preceding that in which the election is held ” shall be substituted.

*City Municipal, District [1938 : Mad. Act II
Municipalities and Local Boards (Amendment)*

(9) In section 59 (2), clause (a) and the words "relating to electoral rolls or" in clause (b) shall be omitted; ¹[and for the word "Adi-Dravidas" in the second proviso to clause (c), the words "members of the scheduled castes" shall be substituted].

Amendment
of Madras
Act V of
1920.

3. In the Madras District Municipalities Act, 1920, the following amendments shall be made, namely :— Madras Act
V of 1920.

(1) In section 3—

(i) clause (1) shall be omitted and clause (1-A) shall be renumbered as clause (1); and

(ii) after clause (28), the following clause shall be inserted, namely :—

[*Vide p. 341, Vol. III.*]

(2) In section 7 (3) (c), for the word "Adi-Dravidas", the words "Members of the scheduled castes" shall be substituted.

(3) For sections 44 and 45 the following section shall be substituted, namely :—

[*Vide pp. 371-372, Vol. III.*]

(4) In section 47, for the expression "sub-section (5)." the expression "sub-section (6)" shall be substituted.

²[(5) In the second proviso to section 303 (2) (b), for the words "any Adi-Dravida candidate", the words "any candidate who is a member of the scheduled castes" shall be substituted.]

Amendment
of Madras
Act XIV
of 1920.

4. In the Madras Local Boards Act, 1920, the following amendments shall be made, namely :— Madras Act
XIV of 1920.

(1) In section 3—

(i) clause (1) shall be omitted and clause (1-A) shall be renumbered as clause (1); and

(ii) after clause 20, the following clause shall be inserted, namely :—

[*Vide p. 641, Vol. III.*]

(2) In sections 9 (1) (c) and 9 (2) (c), for the word "Adi-Dravidas", the words "Members of the scheduled castes" shall be substituted.

(3) For sections 51 and 52, the following section shall be substituted, namely :—

[*Vide pp. 670-672, Vol. III.*]

¹ This portion has become inoperative by virtue of section 2 (i) of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1939 (Madras Act XXI of 1939).

² This amendment has become inoperative by virtue of section 3 (iii), *ibid.*

**1938 : Mad. Act II] City Municipal, District Municipalities 555
and Local Boards (Amendment)**

(4) In section 53, for the expression "sub-section (5)", the expression "sub-section (6)" shall be substituted.

(5) To sub-section (1) of section 54, the following proviso shall be added, namely :—

[Vide p. 672, Vol. III.]

¹ [(6) In the second proviso to section 199 (2) (b), for the words "an Adi-Dravida candidate", the words "any candidate who is a member of the scheduled castes" shall be substituted.]

(7) Schedule III shall be omitted.

5. As soon as may be after the commencement of this Act, the Provincial Government shall determine which of the labour electorates referred to in section 46-B of the Madras City Municipal Act, 1919, as amended by this Act, shall correspond to each of the labour constituencies referred to in that section as it stood before the commencement of this Act; and the provisions of the Madras City Municipal Act, 1919, and of this Act shall apply accordingly, and in particular, the divisional seat for labour included in the fifteen divisional seats in the City of Madras, elections to which were postponed by section 2 of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1937, shall be filled by the corresponding labour electorate.

Determination of labour electorates corresponding to existing labour constituencies.

Madras Act IV of 1919.

Madras Act IV of 1919.

Madras Act XV of 1937.

6. Save as otherwise provided in section 5, nothing contained in this Act shall be deemed to affect the tenure of office of any person holding office at the commencement of this Act as a member of any municipality or local board constituted under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920.

Tenure of office of members of local bodies holding office at commencement of Act not to be affected.

Madras Act IV of 1919.

Madras Act V of 1920.

Madras Act XIV of 1920.

7. The term of office of the councillors elected at the first ordinary elections held after the commencement of this Act to the fifteen divisional seats in the Corporation of Madras, elections to which seats were postponed by section 2 of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1937, shall—

Term of certain members of the Corporation of Madras.

Madras Act XV of 1937.

(a) commence immediately on the expiry of the date up to which the term of office of their predecessors was extended under section 2 aforesaid or forthwith if the election in any case has been completed after that date; and

¹ This amendment has become inoperative by virtue of section (4) of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1939 (Madras Act XXI of 1939).

*City Municipal, District [1938 : Mad. Act II
Municipalities and Local Boards (Amendment)*

- (b) subject to the provisions of the Madras City Municipal Act, 1919, expire at noon on the 1st day of November 1940. Madras Act IV of 1919.

Term of office of councillors of certain municipalities.

8. The term of office of the councillors elected at the first ordinary elections held after the commencement of this Act to any municipality constituted under the Madras District Municipalities Act, 1920, elections to which were postponed under section 3 of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1937, shall— Madras Act V of 1920.

- (a) commence immediately on the expiry of the date up to which the term of office of their predecessors was extended, or up to which the constitution or reconstitution of the municipality was postponed, as the case may be, under section 3 aforesaid, or forthwith if the election in any case has been completed after that date; and Madras Act XV of 1937.

- (b) subject to the provisions of the Madras District Municipalities Act, 1920, and the Madras District Municipalities and Local Boards (Amendment) Act, 1921, expire at noon on the 1st day of November 1940. Madras Act V of 1920.
Madras Act II of 1922.

Term of office of members of certain local boards.

9. The term of office of the members elected at the first ordinary elections held after the commencement of this Act to any local board constituted under the Madras Local Boards Act, 1920, elections to which were postponed under section 4 of the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1937, shall— Madras Act XIV of 1920.

- (a) commence immediately on the expiry of the date up to which the term of office of their predecessors was extended, or up to which the constitution, or reconstitution of the local board was postponed, as the case may be, under section 4 aforesaid, or forthwith if the election in any case has been completed after that date; and Madras Act XV of 1937.

- (b) subject to the provisions of the Madras Local Boards Act, 1920, and the Madras District Municipalities and Local Boards (Amendment) Act, 1921, expire at noon on such date not being later than the 31st December 1940 as the Provincial Government may fix. Madras Act XIV of 1920.
Madras Act II of 1922.

Construction of references to 'Adi-Dravidas' in Notification, etc.

10. All notifications, rules and orders issued before the commencement of this Act under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, shall be construed as if references to 'Adi-Dravidas' therein were references to members of the scheduled castes. Madras Act IV of 1919.
Madras Act V of 1920.
Madras Act XIV of 1920.

**1938 : Mad. Act II] City Municipal, District Municipalities 557
and Local Boards (Amendment)**
**1938 : Mad. Act III] Motor Vehicles Taxation
(Amendment)**

Madras Act
IV of 1919.
Madras Act
V of 1920.
Madras Act
XIV of 1920.

11. If any difficulty arises in giving effect to the provisions of this Act or of the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, as amended by this Act, the Provincial Government may, as occasion may require, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty. Power to remove difficulties.

MADRAS ACT No. III OF 1938.¹

[THE MADRAS MOTOR VEHICLES TAXATION (AMENDMENT)
ACT, 1938.]

[Received the assent of the Governor on the 17th March 1938, first published in the Fort St. George Gazette on the 22nd March 1938.]

An Act further to amend the Madras Motor Vehicles Taxation Act, 1931, for a certain purpose.

Madras Act
III of 1931.

WHEREAS it is expedient further to amend the Madras Motor Vehicles Taxation Act, 1931, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Motor Vehicles Short title. Taxation (Amendment) Act, 1938.

Madras Act
III of 1931.

2. In section 10 of the Madras Motor Vehicles Taxation Act, 1931, after sub-section (3), the following sub-section shall be added, namely :— Amendment of section 10, Madras Act III of 1931.

[Vide p. 274 *supra*.]

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 5th October 1937, Part IV, page 42.

THE MADRAS AGRICULTURISTS RELIEF ACT, 1938.

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*(Chapter I.—Preliminary.)*MADRAS ACT No. IV OF 1938.¹

[THE MADRAS AGRICULTURISTS RELIEF ACT, 1938.]

[Received the assent of the Governor-General on the 11th March 1938, first published in the Fort St. George Gazette on the 22nd March 1938.]

An Act to provide for the relief of indebted agriculturists in the Province of Madras.

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the Province of Madras ; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

1. This Act may be called the Madras Agriculturists Relief Short title Act, 1938.

2. It extends to the whole of the Province of Madras. Extent.

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

(i) 'person' means an individual and includes an undivided Hindu family, a marumakkattayam or aliyasantana tarwad or tavazhi, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association ;

(ii) 'agriculturist' means a person who—

(a) has a saleable interest in any agricultural or horticultural land in the Province of Madras, not being land situated within a municipality or cantonment, which is assessed by the Provincial Government to land revenue (which shall be deemed to include peshkash and quit-rent), or which is held free of tax under a grant made, confirmed or recognized by Government ; or

(b) holds an interest in such land under a land-holder under the Madras Estates Land Act, 1908, as tenant, ryot or under-tenure holder ; or

(c) holds an interest in such land, recognized in the Malabar Tenancy Act, 1929 ; or

(d) holds a lease of such land from any person specified in sub-clause (a), (b) or (c) or is a sub-lessee of such land :

Provided that a person shall not be deemed to be an 'agriculturist' if he—

(A) has in either of the two financial years ending 31st March 1938 been assessed to income-tax under the Indian Income-tax Act, 1922, or under the income-tax laws of any Indian State, or foreign government ; or

Madras Act
I of 1908.

Madras Act
XIV of 1930.

Act XI of
1922.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette Extraordinary*, dated 1st December 1937, Part IV, page 12.

(Chapter I—Preliminary)

- (B) has within the two years immediately preceding the 1st October 1937 been assessed to profession-tax on a half-yearly income of more than three hundred rupees derived from a profession other than agriculture under the Madras District Municipalities Act, 1920, the Madras City Municipal Act, 1919, the Cantonments Act, 1924, or any law governing municipal or local bodies in any other province in British India, any Indian State or any foreign State in India, or under the Madras Local Boards Act, 1920, in a panchayat which was a union before the 26th August 1930 ; or
- Madras Act
V of 1920.
Madras Act
IV of 1919.
Act II of
1924.
- (C) has within the two years immediately preceding the 1st October 1937, been assessed to property or house tax in respect of buildings or lands other than agricultural lands, under the Madras District Municipalities Act, 1920, the Madras City Municipal Act, 1919, the Cantonments Act, 1924, or any law governing municipal or local bodies in any other province in British India or any Indian State, or under the Madras Local Boards Act, 1920, in a panchayat which was a union before the 26th August 1930, provided that the aggregate annual rental value of such buildings and lands, whether let out or in the occupation of the owner, is not less than Rs. 600 ; or
- Madras Act
V of 1920.
Madras Act
IV of 1919.
Act II of
1924.
Madras Act
XIV of 1920.
- (D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof in respect of which estate, share or portion any sum exceeding Rs. 500 is paid as peshkash or any sum exceeding Rs. 100 is paid as quit-rent, jodi, kattubadi, poruppu or the like, or is a janmi under the Malabar Tenancy Act, 1929, who pays any sum exceeding Rs. 500 as land revenue to the Provincial Government.
- Madras Act
I of 1908.
Madras Act
XIV of 1930.

Explanation.—The annual rental value of any building or land for the purposes of proviso (C) shall—

- (1) where the assessment is based on the annual rental value, be deemed to be such value ;
- (2) where the assessment is based on the capital value, be deemed to be five per cent of the capital value ; and
- (3) in any other case, be deemed to be the value ascertained in the prescribed manner ;

(Chapter I—Preliminary.)

(iii) 'debt' means any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise, but does not include rent as defined in clause (iv), or 'kanartham' as defined in section 3 (l) (1) of the Malabar Tenancy Act, 1929 ;

Madras Act
XIV of
1930.

Madras
Act I of
1908.
Madras
Act XIV of
1930.
Madras
Act I of
1908.

(iv) 'rent' means rent as defined by the Madras Estates Land Act, 1908, or rent or michavaram as defined by the Malabar Tenancy Act, 1929, or quit-rent, jodi, kattubadi, [poruppu or the like, payable to the landholder of an estate as defined by the Madras Estates Land Act, 1908, whether a decree or order of a civil or revenue court has been obtained therefor or not, and includes interest payable thereon but does not include costs incurred in respect of the recovery thereof through a civil or revenue court or the share of the land cess recoverable by the landholder under section 88 of the Madras Local Boards Act, 1920 ; and

Madras
Act XIV of
1920.

(v) 'creditor' includes his heirs, legal representatives and assigns.

Certain
debts and
liabilities
not to be
affected.

4. Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following heads :—

- (a) any revenue, tax or cess payable to the Provincial Government or any other sum due to them, by way of loan or otherwise ;
- (b) any revenue, tax or cess payable to the Central Government or any other sum due to them, by way of loan or otherwise ;
- (c) any tax or cess payable to any local authority or any other sum due to them, by way of loan or otherwise ;
- (d) any debt contracted on the security of house property alone in a municipality, a cantonment, or a panchayat which was a union before the 26th August 1930 ;
- (e) any liability in respect of any sum due to any co-operative society, including a land mortgage bank, registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or any debt due to any corporation formed in pursuance of an Act of Parliament or of any special Indian law or Royal Charter or Letters Patent ;
- (f) any liability arising out of a breach of trust ;
- (g) any liability in respect of maintenance whether under decree of court or otherwise ;

Madras
Act VI of
1932.

(Chapter I—Preliminary. Chapter II—Scaling down of Debts and future Rate of Interest.)

- (h) any debt or debts due to a woman on the 1st October 1937 who on that date did not own any other property, provided that the principal amount of the debt or debts did not exceed rupees three thousand ;

Explanation.—For the purpose of this clause, the house in which the creditor woman lived, or any furniture therein, or her household utensils, wearing apparel, jewellery, or such like personal belongings shall not be regarded as property.

- (i) any wages due to an agricultural or other rural labourer :

Provided that where the liabilities mentioned in clause (e) arise by reason of an assignment to the co-operative society, such assignment has taken place before the 1st October 1937 or is an assignment to such society of a loan granted by a co-operative society.

Special provision for undivided Hindu families, etc.

5. Where an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi is assessed to the taxes specified in provisos (A), (B) and (C) to section 3 (ii), or falls within the category of persons specified in proviso (D) to the same section, no person who was a member of the family on the 1st October 1937 shall be deemed to be an agriculturist for the purposes of this Act except section 13.

Sons and descendants of non-agriculturist members of Hindu families to be non-agriculturists.

6. Where in an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi which is an " agriculturist " within the meaning of section 3 (ii), any member of the family is not an agriculturist, then, notwithstanding anything contained in section 3 (ii), none of his sons and descendants in the male line shall be deemed to be an agriculturist for the purposes of sections 7 to 12 and 19 to 27 of this Act.

CHAPTER II.—SCALING DOWN OF DEBTS AND FUTURE RATE OF INTEREST.

Debts payable by agriculturists to be scaled down.

7. Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter.

No sum in excess of the amount as so scaled down shall be recoverable from him or from any land or interest in land belonging to him ; nor shall his property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter.

8. Debts incurred before the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

- (1) All interest outstanding on the 1st October 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date.
- (2) Where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or both, such debt including the principal, shall be deemed to be wholly discharged.
- (3) Where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage, or the principal amount or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable.
- (4) Subject to the provisions of sections 22 to 25, nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Provision
for debts
incurred
before 1st
October
1932.

Explanation.—Where a debt has been renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been subsequently advanced as principal shall alone be treated as the principal sum repayable by the agriculturist under this section.

9. Debts incurred on or after the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

- (1) Interest shall be calculated up to the commencement of this Act at the rate applicable to the debt under the law, custom, contract or decree of Court under which it arises or at five per cent per annum simple interest, whichever is less and credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due :

Provision
for debts
incurred on
or after 1st
October
1932.

(Chapter II—Scaling down of Debts and future Rate of Interest.)

Provided that any part of the debt which is found to be a renewal of a prior debt shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt had been contracted prior to the 1st October 1932, shall be dealt with under the provisions of section 8.

(2) Subject to the provisions of sections 22 to 25, nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Exceptions.

10 (1) The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October 1937, hold an interest in, or a lease or sub-lease of, any land as specified in that section.

(2) Nothing contained in sections 8 and 9 shall affect—

(i) any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee, or

(ii) any liability for which a charge is provided under section 55, clause 4, sub-clause (b) of the Transfer of Property Act, or

(iii) any liability in respect of any sum due to any public company as defined in the Indian Companies Act, 1913, or to any scheduled bank as defined by section 2 (e) of the Reserve Bank of India Act, 1934, if the interest payable in respect of the liability is not more than nine per cent per annum.

Provision as to costs, etc., in certain cases.

11. Where a debt payable by an agriculturist includes any sum decreed as costs by any Court, or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable in addition to the sum recoverable under the provisions of sections 8 and 9.

Rate of interest payable by agriculturists on old loans.

12. All debts which have been scaled down under the provisions of this Act shall, so far as any sum remains payable thereunder, carry from the date up to which they have been scaled down interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise :

Provided that it shall not in any case exceed 6½ per cent per annum simple interest, that is to say, one pie per rupee per mensem, simple interest, or one anna per rupee per annum simple interest.

(Chapter II—Scaling down of Debts and future Rate of Interest.
Chapter III.—Arrears of Rent.)

13. In any proceeding for recovery of a debt, the court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at $6\frac{1}{4}$ per cent per annum, simple interest, that is to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest : Rate of interest payable by agriculturists on new loans.

Provided that the Provincial Government may, by notification in the Official Gazette, alter and fix any other rate of interest from time to time.

Explanation.—For the purposes of this section, the definition of ‘ agriculturist ’ in section 3 (ii) shall be read as if—

- (i) in proviso (A) to that section, for the expression “ the two financial years ending 31st March 1938 ”, the expression “ the two financial years ending on the 31st March immediately preceding the date on which the debt is incurred ” were substituted ; and
- (ii) in provisos (B) and (C) to that section, for the expression “ the two years immediately preceding the 1st October 1937 ”, the expression “ the two years ending on the 31st March or the 30th September (whichever is later) immediately preceding the date on which the debt is incurred ” were substituted.

14. Notwithstanding anything contained in section 3 (ii) and subject to the provisions of sections 5 and 6, where in a Hindu family, whether divided or undivided, some of the members liable in respect of a family debt are not agriculturists while others are agriculturists, the creditor shall, notwithstanding any law to the contrary, be entitled to proceed— Separation of share of debt in particular cases.

- (a) against the non-agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt ; and
- (b) against the agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt which shall be scaled down in accordance with the provisions of this Act.

CHAPTER III.—ARREARS OF RENT.

15. (1) All rent payable by an agriculturist to a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, or to a janmi or intermediary under the Malabar Tenancy Act, 1929, which has accrued for the fasli year 1345 and prior faslis and which is outstanding on the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor : Conditional discharge of arrears of rent due to landholders, etc.

Provided that where the person liable to pay rent (hereinafter in this section referred to as ‘ tenant ’) does not, on or

(Chapter III—Arrears of Rent.)

before the 30th September 1939, pay up all arrears of rent accrued in respect of any holding for faslis 1346 and 1347, the arrears of rent for fasli 1345 and prior faslis which were outstanding in respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1346 and 1347 which is paid up by the ryot or tenant bears to the rent due for those two faslis :

Provided further that no tenant shall be entitled to the benefit of this section unless he shall have paid in respect of the holding, the rent due for fasli 1347 on or before the 30th September 1938.

Explanation.—In cases governed by the Malabar Tenancy Act, 1929, any reference to a fasli year in this Chapter shall be deemed to be a reference to the agricultural year as defined in the Malabar Tenancy Act, 1929, which contains the greater part of the fasli year. Madras Act
XIV of 1930.

Illustrations.—(a) A ryot or tenant is in arrear at the commencement of this Act in respect of rent for a particular holding for fasli 1345 and prior faslis in the sum of Rs. 500 and is in arrear on that date in respect of rent for the same holding for faslis 1346 and 1347, the rent for each fasli being Rs. 100. Within the 30th September 1938 he pays the rent for fasli 1347 and within 30th September 1939, he pays the rent for fasli 1346. The arrears of rent of Rs. 500 which were outstanding at the commencement of this Act will be deemed to be discharged.

(b) A sum of Rs. 500 representing the arrears of rent in respect of a particular holding for fasli 1345 and prior faslis and the rents for faslis 1346 and 1347 for that holding are in arrear and outstanding at the commencement of this Act, the rent for each fasli being Rs. 100. The ryot or tenant pays the landholder within 30th September 1938 the rent for fasli 1347 but fails to pay within the 30th September 1939 any portion of the rent for fasli 1346. Only a sum of Rs. 250 or one half of the rent of faslis prior to and inclusive of fasli 1345 will be deemed to be discharged.

(c) In the same case, the ryot or tenant does not pay the landholder within the 30th September 1938 the whole of the rent for fasli 1347. No portion of the arrears for fasli 1345 and prior faslis is discharged, and the ryot loses the benefit of this section.

(d) In the same case, the ryot or tenant pays the landholder within 30th September 1938 the rent for fasli 1347, but pays within 30th September 1939 only Rs. 50, being half the rent for fasli 1346. He has thus paid Rs. 150 out of

(Chapter III—Arrears of Rent.)

Rs. 200 being the rent of both the faslis 1346 and 1347, before 30th September 1939. A sum of Rs. 375, or three-fourths of the rent of faslis prior to and inclusive of fasli 1345 will be allowed to be discharged.

(2) Nothing contained in sub-section (1) shall be deemed to effect a discharge of arrears of rent which accrued due for fasli 1345 if proceedings for the recovery of such arrears stood stayed by an Act of the Legislature or by an order of a Court or if such proceedings, if instituted, would have stood so stayed. But the arrears of rent for fasli 1345 shall not be recoverable until the 30th September 1938 or if the rent for fasli 1347 is paid before that date, until the 30th September 1939.

Madras Act
I of 1908.

(3) Notwithstanding anything to the contrary in any agreement or in section 64 of the Madras Estates Land Act, 1908, any payment of rent made by a tenant after the commencement of this Act shall be credited towards the rent due by him for fasli 1347 in the first instance and for fasli 1346 in the next instance, and not towards the rent due for any previous fasli.

(4) Every tenant shall be at liberty to pay into Court any amount towards the rent due or claimed to be due by him for faslis 1347 or 1346 or both and thereupon the Court shall, after notice to the landholder, under-tenure holder, janmi or intermediary, as the case may be, apply the provisions of this Act and determine whether the whole or only a portion of the rent for the faslis aforesaid has been paid by the tenant, and also the extent of the remaining liability, if any, of the tenant for rent under the provisions of this Act.

Explanation.—For the purposes of this sub-section, ‘Court’ shall mean the Collector referred to in section 209 (1) of the Madras Estates Land Act, 1908, or the Court referred to in section 3 (b) of the Malabar Tenancy Act, 1929, as the case may be.

Madras Act
I of 1908.
Madras Act
XIV of 1930.

16. Notwithstanding anything contained in this chapter, a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, or a janmi or intermediary under the Malabar Tenancy Act, 1929, shall be entitled to recover, in addition to any sum recoverable by him under section 15—

Landholder
to be entit-
led to
recover land
cess and
costs.

Madras Act
XIV of 1920.

(a) the land cess, if any, paid by him and recoverable under section 88 of the Madras Local Boards Act, 1920 ;

(b) the land revenue and water cess, if any, paid by him to the Provincial Government which the tenant was bound to pay by virtue of any law, custom, contract or decree of court governing the tenancy ; and

(Chapter III—Arrears of Rent. Chapter IV—
Procedure and Miscellaneous.)

(c) the costs awarded to him in any decree for rent obtained by him.

Extension of limitation for suits, etc., for rent in certain cases.

17. Notwithstanding anything contained in the Madras Estates Land Act, 1908, or the Malabar Tenancy Act, 1929, or in any law of limitation or procedure in force for the time being no suit or execution proceedings in respect of arrears of rent accrued for fasli 1345 or any prior fasli which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1938, shall be so barred and the landholder, under-tenure holder, janmi or intermediary, as the case may be, shall be entitled to file a suit or institute execution proceedings for recovery thereof, on or before the 31st December 1938; and in cases where the rent due for fasli 1347 has been paid before the 30th September 1938, the period of limitation for any suit or execution proceedings for the recovery of any arrears of rent which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1939, shall stand extended until the 31st December 1939 :

Madras Act I of 1908.
Madras Act XIV of 1930.

Provided that where on the 31st December 1938 or the 31st December 1939, as the case may be, an application under sub-section (4) of section 15 is pending in any Court, the period of limitation prescribed by this section shall stand extended until the expiry of a period of two months from the date of the order on such application.

CHAPTER IV.—PROCEDURE AND MISCELLANEOUS.

Provision as to costs in certain cases.

18. (1) Where a decree is passed against an agriculturist in a suit filed on or after the 1st October 1937, the Court shall allow only such costs as would have been allowable if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act, and where in any such case a decree has been passed before the commencement of this Act, the Court shall, on application by the agriculturist, amend the decree accordingly.

(2) Nothing in sub-section (1) shall apply to any suit instituted on or after the 1st October 1937 and before the commencement of this Act in respect of a claim which would be barred by limitation before the 1st April 1938.

Amendment of certain decrees.

19. Where before the commencement of this Act, a court has passed a decree for the repayment of a debt, it shall, on the application of any judgment-debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family whether or not he is the judgment-debtor or on the application of the decree-holder, apply the

*(Chapter IV—Procedure and Miscellaneous.)*Act V of
1908.

provisions of this Act to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter satisfaction, as the case may be :

Provided that all payments made or amounts recovered, whether before or after the commencement of this Act, in respect of any such decree shall first be applied in payment of all costs as originally decreed to the creditor.

20. Every court executing a decree passed against a person entitled to the benefits of this Act, shall on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 19 :

Stay of
execution
proceedings.

Provided that where within 60 days after the application for stay has been granted the judgment-debtor does not apply to the court which passed the decree for relief under section 19 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary.

Explanation.—The expression “the court which passed the decree” shall have the same meaning as in the Code of

Act V
1908.

of Civil Procedure, 1908.

21. Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if prior to the coming into force of this Act, a dividend has been declared out of his assets. If a dividend has not been so declared, this Act shall apply to the debts payable by such person if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency.

Adjudica-
tions in
insolvency.

22. Where, in execution of any decree, any movable property of an agriculturist has been sold on or after the 1st October 1937, any judgment-debtor may apply to the court for an order that the provisions of section 8 or 9, as the case may be, and of sections 11 and 12 be applied to the decree, and the court, shall, if satisfied that the applicant is an agriculturist entitled to the benefits of those sections, apply the same and order the decree-holder to refund any sum received by him on or after the 1st October 1937 in excess of the amount to which he would have been entitled if the property had not been sold :

Special
provision in
the case of
certain
sales of
movable
property.

Provided that no such order shall be made without notice to the decree-holder and without affording him an opportunity to be heard in the matter.

(Chapter IV—Procedure and Miscellaneous.)

Sales of immovable property to be set aside in certain cases.

23. Where in execution of any decree any immovable property, in which an agriculturist had an interest, has been sold or foreclosed on or after the 1st October 1937, then, notwithstanding anything contained in the Indian Limitation Act, 1908, or in the Code of Civil Procedure, 1908, and notwithstanding that the sale has been confirmed, any judgment-debtor, claiming to be an agriculturist entitled to the benefits of this Act, may apply to the court within 90 days of the commencement of this Act to set aside the sale or foreclosure of the property, and the court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of this Act, order the sale or foreclosure to be set aside, and thereupon the sale¹ [or foreclosure] shall be deemed not to have taken place at all :

Act IX of 1908.
Act V of 1908.

Provided that no such order shall be made without notice to the decree-holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter.

Consequential provision on setting aside of sale.

24. Where a sale is set aside under the preceding section, a purchaser shall be entitled to an order for repayment of any purchase money paid by him against the person to whom it has been paid :

Provided that no poundage shall be payable in respect of any such sale and provided further that where poundage has been collected the court shall direct the same to be refunded.

Alienations by debtor.

25. All alienations of immovable property made by an agriculturist debtor on or after the 1st October 1937 shall be invalid as against every creditor whose sale in execution or foreclosure decree has been set aside under section 23 or who became entitled to rateable distribution of the proceeds of such sale under section 73 of the Code of Civil Procedure, 1908.

Act V of 1908.

District Collector to furnish information as to certain facts.

26. Any creditor may apply to the Collector of the district in which the creditor believes his debtor to have been or to be assessed to income-tax in terms of proviso (A) to section 3 (ii) or to profession, property or house tax under the Cantonments Act, 1924, in terms of provisos (B) and (C) to that section, for information as to the above facts and the Collector shall thereupon ascertain such information and grant to such creditor a memorandum in the prescribed form as to whether the debtor has been so assessed to income-tax or to profession, property or house tax. Such memorandum shall be received in every court as evidence of the facts stated therein.

Act II of 1924.

¹ These words were inserted by the Second Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

27. Any creditor may apply to the executive authority of a municipality, the president of a local board or the Revenue Officer of the Corporation of Madras for information as to whether his debtor was or is assessed to profession, property or house tax in terms of provisos (B) and (C) to section 3 (ii), and the executive authority, president or Revenue Officer shall thereupon grant to such creditor a certificate in the prescribed form as to whether the debtor named in the application has been so assessed to profession, property or house tax. Such certificate shall be received in every court as evidence of the facts stated therein.

Executive authorities of local bodies to furnish information as to certain facts.

28. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act.

Power to make rules.

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

- (a) in regard to any matter which is required to be prescribed by this Act ;
- (b) prescribing the form of, and the fees to be paid in respect of, applications under this Act ; and
- (c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in the Official Gazette and upon such publication shall have effect as if enacted in this Act.

MADRAS ACT No. V OF 1938.¹

[THE MADRAS TRAFFIC CONTROL ACT, 1938.]

[Received the assent of the Governor-General on the 27th March 1938, first published in the Fort St. George Gazette on the 29th March 1938.]

An Act to provide for the control of traffic in public places in the Province of Madras.

WHEREAS it is expedient to enable the Provincial Government to make provision for the control of traffic in public places in the Province of Madras, and for that purpose further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, the Indian Motor Vehicles Act, 1914, in its application to the Province of Madras, and the Madras Motor Vehicles Taxation Act, 1931 ; It is hereby enacted as follows.

Madras Act IV of 1919.
Madras Act V of 1920.
Madras Act XIV of 1920.
VIII of 1914.

Madras Act III of 1931.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 22nd February 1938—Part IV, pages 46-49.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Traffic Control Act, 1938.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once, and the rest of this Act shall come into force on such ¹ date as the Provincial Government may, by notification, appoint.

Definition.

2. In this Act, 'Public place' means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right of pass and includes—

(a) in the City of Madras, a public street as defined in clause (20) of section 3 of the Madras City Municipal Madras Act IV of 1919.

(b) in a municipality governed by the Madras District Madras Act V of 1920. Municipalities Act, 1920, a public street as defined in clause (21) of section 3 of that Act; and

(c) in a local area governed by the Madras Local Boards Madras Act XIV of 1920. Act, 1920, a public road as defined in clause (18) of section 3 of that Act.

Power of
Provincial
Government
to make
rules for
the control of
traffic.

3. The Provincial Government may, after previous publication, make rules to provide—

(a) for the regulation of the use of any public place and the closing thereof or parts thereof; and

(b) for the regulation of traffic in any public place or its reservation for particular kinds of traffic.

Penalty for
breach of
rules.

4. In making any rule under section 3, the Provincial Government may provide that a breach thereof shall be punishable—

(a) with fine which may extend to fifty rupees and, in case of a continuing breach, with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach; or

(b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from an officer empowered in that behalf by the Provincial Government, to discontinue such breach.

Amendment
of Madras
Act IV of
1919.

5. In the Madras City Municipal Act, 1919—

(i) sub-clauses (b) and (c) of clause (8) of section 349 shall be omitted and sub-clause (d) of that clause shall be relettered as sub-clause (b); and

¹ Came into force on the 1st April 1938.

- (ii) in clause (9) of the same section, after the words "public or municipal places", the following words shall be added, namely :—

[*Vide p. 218, Volume III.*]

6. In the Madras District Municipalities Act, 1920—

Amendment
of Madras
Act V of
1920.

- (i) section 174-A shall be omitted ;
 (ii) in section 306, sub-clauses (b) and (c) of clause (8) shall be omitted and sub-clause (d) of that clause shall be relettered as sub-clause (b) ;
 (iii) in the same section, in clause (9), after the words "public or municipal places" the following words shall be added, namely :—

[*Vide p. 490, Volume III.*] ; and

- (iv) in Schedules VII and VIII, the entries relating to section 174-A shall be omitted.

7. In the Madras Local Boards Act, 1920—

Amendment
of Madras
Act XIV of
1920.

- (i) section 166 shall be omitted ;
 (ii) in section 202, sub-clauses (a) and (b) of clause (5) shall be omitted and sub-clause (c) of that clause shall be renumbered as clause (5) ;
 (iii) in the same section, in clause (6), after the words "places vested in a local board", the following words shall be added, namely :—

[*Vide p. 740, Volume III.*] ; and

- (iv) in Schedules VIII and IX, the entries relating to section 166 shall be omitted.

8. The Indian Motor Vehicles Act, 1914, shall in its application to the Province of Madras, be construed as if the rule-making power conferred by section 11 of that Act extended to the following matters, namely :—

Amendment
of Act VIII
of 1914 in
its applica-
tion to the
Province.

- " (a) The prescription of the conditions subject to which, and the fees (if any) on payment of which, motor vehicles or any class of such vehicles may be used in public places, generally or in any particular public place.
 (b) The constitution for each district of a transport authority and the prescription of its powers and functions including, in particular, its powers and functions in regard to—
 (i) the issue or the authorization of the issue of prescribed permits in respect of motor vehicles or any specified class of motor vehicles, for their use in all, or any, public places in the district ;

- (ii) the determination of the areas in the district on the routes or public places situated in which, or of the routes or public places in the district on which, motor vehicles or any specified class of motor vehicles may be used ; and
 - (iii) the restriction of the number of motor vehicles or of any specified class of motor vehicles to which permits may be issued in respect of such areas, routes or public places.
- (c) The constitution of a central transport authority for the Province and the prescription of its powers and functions including, in particular—
- (i) its powers and functions in regard to motor traffic extending over the jurisdiction of two or more of the transport authorities referred to in clause (b), and the exercise of the powers and functions of, and the control to be exercised over, such authorities in respect of such traffic ; and
 - (ii) its appellate jurisdiction in respect of orders passed by the transport authorities referred to in clause (b).
- (d) The powers of the Provincial Government to control the central transport authority referred to in clause (c) and the prescription that the decisions and orders of such authority—
- (i) shall not be liable to be questioned in any Civil Court by suit or otherwise ; and
 - (ii) shall be final except in so far as they may be set aside or revised by the Provincial Government.
- (e) The powers of the Provincial Government to control the transport authorities referred to in clause (b) and the prescription that the decisions and orders of such authorities shall not be liable to be questioned in any Civil Court by suit or otherwise.
- (f) The prescription of a limit of speed in respect of motor vehicles or any specified class of motor vehicles, generally or in any particular public place.
- (g) The empowering of any authority to limit by general or special order the speed at which motor vehicles or any specified class of motor vehicles may be driven, generally or in any particular public place.”

Amendment
of Madras
Act III of
1931.

9. In the Madras Motor Vehicles Taxation Act, 1931—

- (i) in section 2, the following shall be added at the end of clause (iii), namely :—

[Vide pp. 268-269, *supra*.]

- (ii) in the same section, clause (viii) shall be renumbered as clause (viii-b) and the following shall be inserted as clause (viii-a), namely :—

[*Vide p. 269, supra.*]

- (iii) for sub-section (1) of section 10, the following sub-section shall be substituted, namely :—

[*Vide pp. 273-274, supra.*]

- (iv) in sub-section (2) of the same section, for the expression “sub-section (1)”, the expression “sub-clause (v) of clause (a) of sub-section (1)” shall be substituted ;

- (v) for sub-section (3) of the same section, the following sub-section shall be substituted, namely :—

[*Vide p. 274, supra.*]

- (vi) for items 3 and 4 of Schedule II, the following items shall be substituted, namely :—

[*Vide pp. 277-278, supra.*]

- (vii) for items 3 and 4 of Schedule III, the following items shall be substituted, namely :—

[*Vide pp. 278-279, supra.*]; and

- (viii) in item (ii) of sub-section (1) of section 11, after the words ‘class of motor vehicles’, the words ‘or motor vehicles running in any particular area’, shall be added.

10. Notwithstanding anything contained in this Act, Existing by-laws to continue. all by-laws relating to any of the matters mentioned in section 3 of this Act which have been made under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, and are in force at the commencement of this Act shall continue to be valid, but any such by-law may be cancelled or altered by a rule made under section 3 aforesaid.

11. The Madras Government Roads Traffic Control Act, 1931, is hereby repealed. Repeal of Madras Act V of 1931.

12. If any difficulty arises in giving effect to the provisions of this Act or of the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, the Indian Motor Vehicles Act, 1914, or the Madras Motor Vehicles Taxation Act, 1931, as amended by this Act, the Provincial Government, as occasion may require, may, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty. Power to remove difficulties.

MADRAS ACT No. VI OF 1938.¹

[THE MADRAS TOLLS AND MOTOR VEHICLES TAXATION
(AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 12th April 1938,
first published in the Fort St. George Gazette on the 19th
April 1938.]

An Act further to amend the Indian Tolls Act, 1851,
in its application to the Province of Madras and
the Madras Motor Vehicles Taxation Act, 1931, for
certain purposes.

WHEREAS it is expedient further to amend the Indian Tolls
Act, 1851, in its application to the Province of Madras and the VIII of 1851.
Madras Motor Vehicles Taxation Act, 1931, for the purposes Madras Act
hereinafter appearing ; It is hereby enacted as follows :— III of 1931.

Short title.

1. This Act may be called the Madras Tolls and Motor
Vehicles Taxation (Amendment) Act, 1938.

Substitution
of new
section for
section 2,
Act VIII of
1851.

2. For section 2 of the Indian Tolls Act, 1851 (hereinafter VIII of 1851.
referred to as the said Act), the following section shall be
substituted, namely :—

Power of
Provincial
Government
to levy tolls
on roads and
bridges.

“ 2. (1) The Provincial Government may levy tolls in
respect of—

(a) any road or bridge made, improved or repaired
at their expense after the 1st April 1931, and

(b) any bridge made, improved or repaired after the
1st April 1931, partly at the expense of the Pro-
vincial Government and partly at the expense
of a local body or bodies or solely at the expense
of a local body or bodies, provided that the total
expense incurred on the bridge shall not be below
such limit, if any, as the Provincial Government
may, by rules, determine.

(2) The tolls shall be levied only at such rates and for
such period as the Provincial Government may by
notification in the Official Gazette declare to be
necessary—

(a) in the case of tolls levied under clause (a) of
sub-section (1), for the recovery of the amount
expended upon the road or bridge or such
portion of such amount as the Provincial
Government may determine, together with
interest thereon at such rate as they may fix ;
and

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 8th March 1938—Part IV, pages 57-58.

(b) in the case of tolls levied under clause (b) of sub-section (1), for the recovery of the amounts expended upon the bridge—

(i) by the Provincial Government, and

(ii) by the local body or bodies otherwise than from its or their ordinary revenues,

or such portions of such amounts as the Provincial Government may determine, together with interest on such amounts or such portions, as the case may be, at such rate or rates as they may fix.

(3) Where tolls are levied in respect of any bridge under clause (b) of sub-section (1), the receipts from the tolls after deducting the expenses on account of the collection thereof, shall—

(i) in case the bridge is made, improved or repaired solely at the expense of a local body, be paid to that local body, and

(ii) in other cases, be distributed between the local body or bodies concerned and the Provincial Government in proportion to the expenditure respectively incurred by the local bodies otherwise than from their ordinary revenues and by the Government.

(4) All sums payable to local bodies under sub-section (3) shall be charged on the revenues of the Province.

(5) The Provincial Government may place the collection of the tolls levied under sub-section (1) under the management of such persons as may appear to them proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of land revenue."

3. After section 8 of the said Act, the following section shall be added, namely:—

Addition of new section 9 in Act VIII of 1931.

"9. The Provincial Government shall have power to make rules regarding the method of collection of the tolls, the manner of distribution of the receipts therefrom, and generally for carrying out the purposes of this Act."

Power of Provincial Government to make rules.

Madras Act III of 1931.

4. Section 14 of the Madras Motor Vehicles Taxation Act, 1931, shall be omitted.

Repeal of section 14, Madras Act III of 1931.

Madras Act
XIV of
1920.
Madras Act
XIII of
1935.
Madras Act
XIII of
1935.

2. (1) Notwithstanding anything contained in the Madras Local Boards Act, 1920, or the Madras Local Boards (Amendment) Act, 1935, the Provincial Government may, by notification, direct that the term of office of the members of all or any of the local boards situated in any of the districts included in Groups II and III of the Schedule to the Madras Local Boards (Amendment) Act, 1935, shall be reduced so that such term may expire on such date as may be specified in the notification, in accordance with the provisions of sub-section (2). Power of Provincial Government to reduce the term of office of the members of certain local boards.

(2) The date specified in a notification issued under sub-section (1) shall not be earlier than—

- (a) the first day of November 1938, in the case of local boards situated in any of the districts included in Group II aforesaid ; and
- (b) the first day of November 1939, in the case of local boards situated in any of the districts included in Group III aforesaid.

Explanation.—The provisions of this section shall also apply to any local board situated in any of the districts included in Groups II and III aforesaid, notwithstanding that the term of office of the members of such board commenced on a day later than the latest date specified in column (3) of the table in clause (b) (iii) of section 7 of the Madras Local Boards (Amendment) Act, 1935.

Madras Act
XIII of
1935.

MADRAS ACT No. IX OF 1938.¹

[THE MADRAS FAMINE RELIEF FUND (AMENDMENT) ACT, 1938.]
[Received the assent of the Governor on the 26th August 1938,
first published in the Fort St. George Gazette on the 30th
August 1938.]

An Act to amend the Madras Famine Relief Fund Act, 1936, for certain purposes.

Madras Act
XVI of
1936.

WHEREAS it is expedient to amend the Madras Famine Relief Fund Act, 1936, as adapted by the Government of India (Adaptation of Indian Laws) Order, 1937, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras Famine Relief Fund (Amendment) Act, 1938. Short title.

Madras Act
XVI of
1936.

2. In clause (iv) of section 3 and section 6 of the Madras Famine Relief Fund Act, 1936 (hereinafter referred to as the said Act), for the words “ the securities of the Central Government”, the words “ the securities of the Central or of the Provincial Government ” shall be substituted. Amendment of sections 3 and 6, Madras Act XVI of 1936.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 9th August 1938, Part IV, pages 151-152.

580 *Famine Relief Fund (Amendment)* [1938 : Mad. Act IX
Prohibition (Amendment) [1938 : Mad. Act X
Borstal Schools (Amendment) [1938 : Mad. Act XI

Amendment
of section 7,
Madras
Act XVI of
1936.

3. In section 7 of the said Act, after sub-section (2), the following sub-section shall be added, namely :—
 [Vide p. 493 *supra.*]

MADRAS ACT No. X OF 1938.¹

[THE MADRAS PROHIBITION (AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 30th August 1938,
 first published in the Fort St. George Gazette on the 6th
 September 1938.]

An Act to amend the Madras Prohibition Act,
 1937, for a certain purpose.

WHEREAS it is expedient to amend the Madras Prohibition Act, 1937, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Prohibition (Amendment) Act, 1938.

2. In section 6 of the Madras Prohibition Act, 1937—

Madras Act
X of 1937.

- (i) in the first paragraph, the words and figures “ or specially approved as of medicinal value by the Medical Council established by the Madras Medical Registration Act, 1914 ” shall be omitted; and
 (ii) in the proviso, clauses (b) and (c) shall be relettered (c) and (d) respectively, and the following shall be inserted as clause (b), namely :—

[Vide p. 530, *supra.*]

MADRAS ACT No. XI OF 1938.²

[THE MADRAS BORSTAL SCHOOLS (AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 4th September 1938,
 first published in the Fort St. George Gazette on the 6th Sep-
 tember 1938.]

An Act further to amend the Madras Borstal
 Schools Act, 1925, for certain purposes.

WHEREAS it is expedient further to amend the Madras Borstal Schools Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras Act
V of 1926.

Short title.

1. This Act may be called the Madras Borstal Schools (Amendment) Act, 1938.

Amendment
of section 6,
Madras Act
V of 1926.

2. In section 6 of the Madras Borstal Schools Act, 1925 (hereinafter referred to as the said Act), after the words “ a salaried Presidency Magistrate”, the words “ or any other Presidency Magistrate empowered by the Provincial Government to sit singly ” shall be inserted.

Madras Act
V of 1926.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette* (Extraordinary), dated 10th August 1938, Part IV, pages 2-3.

² For Statement of Objects and Reasons, see *Fort St. George Gazette* (Extraordinary), dated 12th August 1938, Part IV, pages 2-3.

1938 : Mad. Act XI]	<i>Borstal Schools (Amendment)</i>	581
1938 : Mad. Act XII]	<i>Estates Land (Amendment)</i>	
1938 : Mad. Act XIII]	<i>Repealing and Amending</i>	

3. In section 7 of the said Act—

- (i) in sub-section (1), for the words “and forward the adolescent offender to the District Magistrate or Subdivisional Magistrate to whom he is subordinate”, the following shall be substituted, namely :—
[Vide p. 124, supra.]; and
- (ii) in sub-section (2), for the words “The District Magistrate or Subdivisional Magistrate to whom the proceedings are so submitted”, the words “The Magistrate to whom the proceedings are so submitted” shall be substituted.

Amendment of section 7, Madras Act V of 1926.

MADRAS ACT No. XII OF 1938.¹

[THE MADRAS ESTATES LAND (AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 4th September 1938, first published in the Fort St. George Gazette on the 6th September 1938.]

An Act further to amend the Madras Estates Land Act, 1908, for a certain purpose.

Madras Act I of 1908.

WHEREAS it is expedient further to amend the Madras Estates Land Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Estates Land (Amendment) Act, 1938. Short title.

Madras Act I of 1908.

2. In sub-section (1) of section 185-A of the Madras Estates Land Act, 1908, for the words “within two years”, the words “within three years” shall be substituted.

Amendment of section 185-A, Madras Act I of 1908.

MADRAS ACT No. XIII OF 1938.²

[THE MADRAS REPEALING AND AMENDING ACT, 1938.]

[Received the assent of the Governor on the 14th September 1938, first published in the Fort St. George Gazette on the 20th September 1938.]

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

WHEREAS it is expedient that the enactments specified in the First Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed :

AND WHEREAS it is also expedient that certain amendments should be made in the enactments specified in the Second Schedule :

It is hereby enacted as follows :—

1. This Act may be called the Madras Repealing and Amending Act, 1938. Short title.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 9th August 1938, Part IV, page 150.

² For Statement of Objects and Reasons, see *ibid*, pages 147-150.

Repeal of
certain
enactments.

2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Saving.

3. Where this Act repeals any enactment—

(a) which, while itself repealing another enactment provided for the saving of rights, privileges, obligations or liabilities, acquired, accrued or incurred under that enactment or provided that references to the enactment by it repealed should be read as if made to the Act or Regulation by which that enactment was repealed, or that acts done under the enactment by it repealed should be deemed to have been done under the Act or Regulation by which that enactment was repealed, or

(b) which, while itself amending another enactment, provided that references to the enactment by it amended should be read as if made to that enactment as so amended, or that acts done under the enactment by it amended should be deemed to have been done under that enactment as so amended or by a new authority substituted in that enactment as so amended for a previously existing authority,

the repeal shall not affect the operation of any such provision as aforesaid.

Amendment
of certain
enactments.

4. The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

THE FIRST SCHEDULE.

REPEALS.

(See section 2.)

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1884	III	The Madras Revenue Recovery (Amendment) Act, 1884.	The whole.
1885	II	The Madras Rivers Conservancy (Amendment) Act, 1885.	The whole.
1895	II	The Madras Canals and Public Ferries (Amendment) Act, 1895.	The whole.
1896	II	The Madras General Clauses (Amendment) Act, 1896.	The whole.
1897	I	The Madras Revenue Recovery (Amendment) Act, 1897.	The whole.
1898	III	The Madras City Police (Amendment) Act, 1898.	The whole.
1905	I	The Madras Abkari (Amendment) Act, 1905.	The whole in all local areas in the Province where the Act has not been repealed by Madras Act X 1937.

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1905	IV	The Madras City Police Act Amendment Act, 1905.	The whole.
1909	I	The Madras Revenue Recovery Amendment Act, 1909.	The whole.
1909	II	An Act to repeal the Madras Labour and Emigration Act, 1866 (Madras Act V of 1866).	The whole.
1909	III	The Madras District Police and Towns Nuisances Acts Amendment Act, 1909.	The whole.
1911	I	The Madras Court of Wards Act, 1902, Amendment Act, 1910.	The whole.
1913	I	The Madras Abkari (Amendment) Act, 1913.	The whole in all local areas in the Province where the Act has not been repealed by Madras Act X of 1937.
1914	III	The Madras Proprietary Estates' Village-Service (Amendment) Act, 1914.	Sections 3 to 7 and 9 to 14.
1914	V	The Canals and Public Ferries (Amendment) Act, 1914.	The whole.
1914	VIII	The Madras Decentralization Act, 1914.	So much of the Schedule as has not been repealed with the exception of the entries in the Schedule relating to Madras Acts III of 1885 and IV of 1889.
1915	I	The Madras Abkari Act (Amendment) Act, 1915.	The whole in all local areas in the Province where the Act has not been repealed by Madras Act X of 1937.
1916	III	The Madras Civil Courts (Amendment) Act, 1916.	The whole.
1920	I	The Malabar Land Registration Amendment Act, 1920.	The whole.
1920	II	The Madras Village Courts (Amendment) Act, 1919.	Sections 3 to 24, 26 and 27 and the Schedule.
1921	I	The Deputy President's Salary Act, 1921.	The whole.
1921	III	The Madras Cattle Disease (Amendment) Act, 1921.	The whole.
1921	IV	The Madras City Municipal (Amendment) Act of 1921.	The whole.
1923	III	The Madras City Municipal (Further Amendment) Act, 1922.	The whole.
1924	I	The Madras Children (Amendment) Act, 1924.	The whole.
1924	III	The Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924.	The whole.
1924	IV	The Madras City Municipal (Amendment) Act, 1924.	So much as has not been repealed.
1924	V	The President's Salary Act, 1924.	The whole.
1925	III	The Madras Civil Courts (Amendment) Act, 1925.	The whole.

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1925	IV	The Madras District Municipalities and Local Boards (Further Amendment) Act, 1924.	The whole.
1925	VI	The Madras City Municipal (Amendment) Act, 1924.	The whole.
1925	VII	The Madras Agricultural Pests and Diseases (Amendment) Act, 1925.	The whole.
1926	VI	The Madras City Tenants Protection (Amendment) Act, 1926.	The whole.
1927	I	The Madras Local Boards (Amendment) Act, 1926.	The whole.
1928	I	The Madras Hindu Religious Endowments (Amendment) Act, 1927.	The whole.
1928	II	The Madras Prevention of Adulteration (Amendment) Act, 1927.	So much as has not been repealed.
1928	III	The Tuticorin Port Trust (Amendment) Act, 1927.	The whole.
1928	VI	The Madras Children (Amendment) Act, 1928.	The whole.
1928	VIII	The Madras State Aid to Industries (Amendment) Act, 1928.	The whole.
1929	V	The Madras Hindu Religious Endowments (Amendment) Act, 1929.	The whole.
1929	X	The Madras Medical Registration (Amendment) Act, 1929.	The whole.
1929	XIII	The Madras City Police (Amendment) Act, 1929.	The whole.
1929	XIV	The Madras Medical Registration (Second Amendment) Act, 1929.	So much as has not been repealed.
1929	XV	The Madras Village Courts (Amendment) Act, 1929.	The whole.
1929	XVII	The Madras District Municipalities (Amendment) Act, 1929.	The whole.
1929	XVIII	The Madras Abkari (Amendment) Act, 1929.	The whole in all local areas in the Province where the Act has not been repealed by Madras Act X of 1937.
1930	I	The Madras District Municipalities and Local Boards (Further Amendment) Act, 1929.	The whole.
1930	II	The Madras Town-Planning (Amendment) Act, 1930.	The whole.
1930	IV	The Madras Hindu Religious Endowments (Amendment) Act, 1930.	The whole.
1930	VI	The Madras State Aid to Industries (Amendment) Act, 1930.	The whole.
1930	X	The Madras District Municipalities (Amendment) Act, 1930.	Sections 2 to 178 and the Schedule.

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1930	XI	The Madras Local Boards (Amendment) Act, 1930.	Sections 2 to 245 and rules 6 and 9 of the Schedule.
1931	II	The Madras Civil Courts (Amendment) Act, 1930.	The whole.
1931	III	The Madras Motor Vehicles Taxation Act, 1931.	Section 3 and Schedule I.
1931	VIII	The Madras District Municipalities (Amendment) Act, 1931.	The whole.
1931	LX	The Madras Local Boards (Amendment) Act, 1931.	The whole.
1931	XI	The Madras Hindu Religious Endowments (Amendment) Act, 1931.	The whole.
1932	I	The Madras Suppression of Immoral Traffic (Amendment) Act, 1931.	The whole.
1932	II	The Madras Elementary Education (Amendment) Act, 1931.	The whole.
1932	III	The Madras Prevention of Adulteration (Amendment) Act, 1932.	The whole.
1932	IV	The Madras Local Boards (Amendment) Act, 1932.	The whole.
1932	V	The Madras Motor Vehicles Taxation (Amendment) Act, 1932.	The whole.
1932	LX	The Madras Medical Registration (Amendment) Act, 1932.	The whole.
1933	III	The Madras City Municipal (Amendment) Act, 1933.	The whole.
1933	VI	The Madras City Police (Amendment) Act, 1933.	The whole.
1933	VII	The Madras Gaming (Amendment) Act, 1933.	The whole.
1933	VIII	The Madras Co-operative Societies (Amendment) Act, 1933.	The whole.
1933	X	The Madras Local Authorities Entertainments Tax (Amendment) Act, 1933.	The whole.
1933	XI	The Madras District Municipalities and Local Boards (Further Amendment) Act, 1933.	The whole.
1933	XII	The Madras District Municipalities (Third Amendment) Act, 1933.	The whole.
1933	XIII	The Madras City Police (Second Amendment) Act, 1933.	The whole.
1933	XIV	The Madras Local Boards (Amendment) Act, 1933.	The whole.
1933	XV	The Madras District Municipalities (Amendment) Act, 1933.	The whole.
1933	XVII	The Madras Court of Wards (Amendment) Act, 1933.	The whole.
1933	XVIII	The Madras Local Boards (Third Amendment) Act, 1933.	The whole.

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1933	XXIII	The Madras Local Boards (Fourth Amendment) Act, 1933.	The whole.
1933	XXIV	The Madras Wild Elephants' Preservation (Amendment) Act, 1933.	The whole.
1933	XXV	The Madras District Municipalities and Local Boards (Amendment) Act, 1933.	The whole.
1934	I	The Madras Forest (Amendment) Act, 1933.	The whole.
1934	II	The Madras Local Boards and Elementary Education (Amendment) Act, 1934.	Sections 2 to 60.
1934	III	The Madras Impartible Estates (Amendment) Act, 1934.	The whole.
1934	IV	The Madras Town-Planning (Amendment) Act, 1934.	The whole.
1934	VI	The Madras Co-operative Societies (Amendment) Act, 1934.	The whole.
1934	VII	The Madras Nurses and Midwives (Amendment) Act, 1934.	The whole.
1934	VIII	The Madras Estates Land (Amendment) Act, 1934.	Sections 2 to 126 and the Schedule.
1934	IX	The Madras Local Authorities Entertainments Tax (Amendment) Act, 1934.	The whole.
1934	XI	The Madras Hindu Religious Endowments (Amendment) Act, 1934.	The whole.
1934	XII	The Madras Impartible Estates (Second Amendment) Act, 1934.	The whole.
1935	I	The Madras City Civil Court (Amendment) Act, 1934.	The whole.
1935	II	The Malabar Land Registration (Amendment) Act, 1934.	The whole.
1935	III	The Madras Local Boards (Amendment) Act, 1934.	The whole.
1935	IV	The Madras District Municipalities (Second Amendment) Act, 1934.	The whole.
1935	V	The Madras Co-operative Societies (Second Amendment) Act, 1934.	The whole.
1935	IX	The Madras Compulsory Labour (Amendment) Act, 1935.	The whole.
1935	X	The Madras State Aid to Industries (Amendment) Act, 1935.	The whole.
1935	XI	The Madras Elementary Education (Amendment) Act, 1935.	Sections 2 to 12.
1935	XII	The Madras Hindu Religious Endowments (Amendment) Act, 1935.	The whole.
1935	XIII	The Madras Local Boards (Amendment) Act, 1935.	Sections 2 to 6.
1935	XV	The Madras Village Courts (Amendment) Act, 1935.	The whole.
1935	XVII	The Madras Co-operative Land Mortgage Banks (Amendment) Act, 1935.	The whole.

Year. (1)	Number (2)	Short title, (3)	Extent of repeal. (4)
1935	XVIII	The Madras District Municipalities (Amendment) Act, 1935.	The whole.
1935	XIX	The Madras Prevention of Adulteration (Amendment) Act, 1935.	The whole.
1935	XXI	The Madras Medical Registration (Amendment) Act, 1935.	The whole.

THE SECOND SCHEDULE.

AMENDMENTS.

(See section 4.)

Year. (1)	Number. (2)	Short title. (3)	Amendments. (4)
<i>Act of the Governor-General in Council.</i>			
1859	XXIV	The Madras District Police Act, 1859.	In the Schedule— (i) for the words and figure “in section 1” occurring after the word “conviction” the words and figure “in section 3” shall be substituted; and (ii) for the words, figures and brackets “(xviii) and (xx) of section 71” the words, figures and brackets “and (xviii) of section 71” shall be substituted.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1865	VII	The Madras Irrigation Cess Act, 1865.	In the first proviso to section 1, the article “the” occurring before the words “the Crown” shall be omitted.
1908	I	The Madras Estates Land Act, 1908.	In section 190, the word and figures “section 40” shall be omitted.
1919	IV	The Madras City Municipal Act, 1919.	(1) In section 387, between the words “regulations” and “shall” the words “are due by any person to the Corporation” shall be inserted. (2) In sub-rule (a) of rule 15 of Schedule IV, the words and figures “under rule 14” occurring for the second time shall be omitted.
1920	IV	The Madras Children Act, 1920.	In section 44, sub-section (3) shall be omitted and sub-section (4) shall be renumbered as sub-section (3).
1920	V	The Madras District Municipalities Act, 1920.	(1) In sub-section (1) of section 41, for the words “his opinion” the words “their opinion” and for the words “he may if he thinks” the words “they may if they think” shall be substituted. (2) In clause (c) of sub-section (2) of section 89, for the words “half-year preceding the demolition” the words “half-year succeeding the demolition” shall be substituted.

Year. (1)	Number. (2)	Short title. (3)	Amendments. (4)
<i>Acts of the Governor of Fort St. George in Council—cont.</i>			
1920	V	The Madras District Municipalities Act, 1920—cont.	(3) In clause (b) of sub-section (2) of section 90, for the words "half-year preceding such date" the words "half year succeeding such date" shall be substituted. (4) In clause (6) of rule 53 of Schedule IV, before the words "any other extraordinary charges" the word "defray" shall be inserted.
1920	VII	The Madras Town Planning Act, 1920.	In section 44, clause (p) of sub-section (2) shall be omitted.
1920	VIII	The Madras Elementary Education Act, 1920.	In the proviso to the Explanation to sub-section (2) of section 45, for the words "as he may think fit" the words "as they may think fit" shall be substituted.
1920	XIV	The Madras Local Boards Act, 1920.	(1) In sub-clause (i) of clause (f) of section 31, for the words "an servant of the Crown" the words "a servant of the Crown" shall be substituted. (2) In clause (c) of sub-section (2) of section 102, for the words "half year preceding the demolition" the words "half-year succeeding the demolition" shall be substituted. (3) In clause (b) of sub-section (2) of section 102-A, for the words "half-year preceding such date" the words "half-year succeeding such date" shall be substituted. (4) In sub-section (2) of section 123, for the word "board" the word "panchayat" shall be substituted. (5) In sub-section (1) of section 195, for the words "as they think fit" the words "as it thinks fit" shall be substituted. (6) In sub-rule (2) of rule 5 of Schedule IV, after the words "who pays any tax to the panchayat" the words "or his authorized agent" shall be inserted and the words "or his authorized agent" occurring at the end of the sub-rule shall be omitted.
<i>Act of the Madras Legislature.</i>			
1938	IV	The Madras Agriculturists Relief Act, 1938.	In section 23 between the words "the sale" and the words "shall be deemed" the words "or foreclosure" shall be inserted.

MADRAS ACT No. XIV OF 1938.¹

[THE PRISONS AND INDIAN LUNACY (MADRAS AMENDMENT)
ACT, 1938.]

[Received the assent of the Governor-General on the 3rd October
1938, first published in the Fort St. George Gazette on the
25th October 1938.]

An Act further to amend the Prisons Act, 1894, and
the Indian Lunacy Act, 1912, in their application
to the Province of Madras for certain purposes.

IX of 1894. WHEREAS it is expedient further to amend the Prisons Act,
IV of 1912. 1894, and the Indian Lunacy Act, 1912, in their application
to the Province of Madras for the purposes hereinafter appear-
ing ; It is hereby enacted as follows :—

1. This Act may be called the Prisons and Indian Lunacy Short title.
(Madras Amendment) Act, 1938.

IX of 1894. 2. After section 39 of the Prisons Act, 1894, the following Insertion of
section shall be inserted, namely :— new section
39-A in Act
IX of 1894.

“ 39-A. The Superintendent may, if in his opinion, a Prisoner requires special treatment in a hospital out-
side the prison or in an asylum as defined in the Indian Lunacy Act, 1912, send him to such hospital
or asylum subject to the prisoner or any relative or friend of the prisoner executing such bond and abiding
by such other conditions, if any, as the Provincial Government may by rule or order prescribe. Any
period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in
going thereto or returning therefrom shall be deemed to be part of the period of his detention in the prison.”
Power of
Superinten-
dent to send
a prisoner
to hospital
or asylum
for special
treatment.

III of 1900. *Explanation.*—Nothing contained in this section shall
be deemed to affect the operation of section 30 of the
Prisoners Act, 1900, in cases to which that section
applies.”

IV of 1912. 8. In sub-section (1) of section 4 of the Indian Lunacy Act, 1912, for the words and figures “ save as provided by
sections 8, 16 and 98 ”, the words, figures and letter “ save as provided by sections 8, 16 and 98 of this Act and by section
39-A of the Prisons Act, 1894 ” shall be substituted. Amendment
of section 4,
Act IV of
1912.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette,
dated 19th July 1938—Part IV, pages 136-137.

MADRAS ACT No. XV OF 1938.¹

[THE INDIAN LUNACY (MADRAS AMENDMENT) ACT, 1938.]
[Received the assent of the Governor-General on the 3rd October 1938, first published in the Fort St. George Gazette on the 25th October 1938.]

An Act further to amend the Indian Lunacy Act, 1912, in its application to the Province of Madras for certain purposes

WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912, in its application to the Province of Madras for the IV of 1912. purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Madras Amendment) Act, 1938.

Insertion of new section 33-A in Act IV of 1912.

2. After section 33 of the Indian Lunacy Act, 1912 (herein- IV of 1912. after referred to as the said Act), the following section shall be inserted, namely :—

Temporary order of discharge of lunatic in interests of his health.

“ 33-A. If the person in charge of any asylum in which a lunatic is detained under the provisions of sections 14, 15 or 17, is satisfied that in the interests of the health of the lunatic, it is necessary to discharge him temporarily, the person aforesaid may order such discharge for such period as he may think fit and subject to such conditions as the Provincial Government may by rule prescribe.”

Amendment of section 88, Act IV of 1912.

3. In section 88 of the said Act, for the words and figures “ on a reception order made under section 14, section 15 or section 17 ”, the words and figures “ on a reception order made under sections 7, 10, 14, 15 or 17 or on an order made under sections 8 or 16 ” and for the words “ authority which made the reception order ” the words “ authority which made the reception or other order aforesaid ” shall be substituted.

Amendment of section 89, Act IV of 1912.

4. In sub-section (1) of section 89 of the said Act, for the words “ may make an order for the recovery of the cost of maintenance of such lunatic together with the costs of the application out of such estate or from such person ”, the following words shall be substituted, namely :—

“ may make an order for the recovery of the whole or any portion of the cost of maintenance of such lunatic and of the costs of the application, out of such estate or from such person :

Provided that an order directing recovery out of such estate shall be made only after making due allowance for the needs of the wife, children and other dependants, if any, of the lunatic.”

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 24th May 1938, Part IV, page 127.

5. In sub-section (1) of section 91 of the said Act, after clause (c), the following clause shall be inserted, namely :—
 “(cc) to prescribe the conditions subject to which lunatics may be discharged temporarily under section 33-A;”

Amendment of section 91, Act IV of 1912.

MADRAS ACT No. XVI OF 1938.¹

[THE MADRAS MEDICAL REGISTRATION (AMENDMENT) ACT, 1938.]

[Received the assent of the Governor General on the 14th October 1938, first published in the Fort St. George Gazette on the 1st November 1938.]

An Act further to amend the Madras Medical Registration Act, 1914, for certain purposes.

WHEREAS it is expedient further to amend the Madras Medical Registration Act, 1914, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Madras Act IV of 1914.

1. This Act may be called the Madras Medical Registration (Amendment) Act, 1938. Short title.
2. For section 5 of the Madras Medical Registration Act, 1914 (hereinafter referred to as the said Act), the following section shall be substituted, namely :—
 [Vide pp. 506–507, Vol. II.] Substitution of new section for section 5, Madras Act IV of 1914.
3. The proviso to section 6 of the said Act shall be omitted. Amendment of section 6, Madras Act IV of 1914.
4. For section 7 of the said Act, the following section shall be substituted, namely :—
 [Vide p. 507, Vol. II.] Substitution of new section for section 7, Madras Act IV of 1914.
5. In clause (7) of section 8 of the said Act, for the expression “ clause (b) or clause (bb)”, the expression “ clause (a) or clause (b) ” shall be substituted. Amendment of section 8, Madras Act IV of 1914.
6. In section 11 of the said Act, after the first sentence, the following sentence shall be inserted, namely :—
 [Vide p. 508, Vol. II.] Amendment of section 11, Madras Act IV of 1914.
7. In sub-section (1) of section 24 of the said Act—
 (a) in clause (i), for the expression “ sections 5 and 6” the expression “ section 5 ” shall be substituted ; and
 (b) in clause (ii), for the words “ election of the vice-president”, the words “ election and term of office of the president and vice-president ” shall be substituted. Amendment of section 24, Madras Act IV of 1914.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 28th June 1938, Part IV, pages 132–133.

592 *Medical Registration (Amendment) [1938 : Mad. Act XVI
Prohibition (Second Amendment) [1938 : Mad. Act XVII*

Transitional provisions. 8. (1) The Provincial Government shall fix a convenient date on which the term of office of the members of the Council holding office at the commencement of this Act shall expire :

Provided that the Provincial Government may, from time to time, postpone any date fixed by them under this sub-section and fix another date in lieu thereof.

(2) The Provincial Government shall cause arrangements to be made for the election of members of the Council, and nominate members thereto, so that the newly elected and nominated members may come into office on the date fixed under sub-section (1) for the expiry of the term of office of members holding office at the commencement of this Act.

(3) No vacancy in the office of any member of the Council which is in existence at the commencement of this Act or which occurs before the date fixed under sub-section (1) shall be filled.

(4) If any difficulty arises as to the reconstitution of the Council in accordance with the provisions of this Act, the Provincial Government, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

— — — — —
MADRAS ACT No. XVII OF 1938.¹

[THE MADRAS PROHIBITION (SECOND AMENDMENT) ACT, 1938.]

[Received the assent of the Governor on the 20th December 1938, first published in the Fort St. George Gazette on the 20th December 1938.]

An Act further to amend the Madras Prohibition Act, 1937, for certain purposes.

WHEREAS it is expedient further to amend the Madras Prohibition Act, 1937, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Prohibition (Second Amendment) Act, 1938.

Amendment of section 3, Madras Act X of 1937.

2. In section 3 of the Madras Prohibition Act, 1937 (hereinafter referred to as the said Act)—

(i) in clause (19), the word " and " at the end shall be omitted ; and

(ii) after clause (20), the following shall be added, namely :—

[Vide p. 528 supra.]

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 15th November 1938, Part IV, pages 212—214.

3. After section 16 of the said Act, the following section shall be inserted, namely :—
[*Vide p. 533, supra.*]

Insertion of new section 16-A in Madras Act X of 1937.

4. In section 20 of the said Act, clause (b) shall be omitted and clauses (c) and (d) shall be relettered (b) and (c) respectively.

Amendment of section 20, Madras Act X of 1937.

MADRAS ACT No. XVIII OF 1938.¹

[THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (AMENDMENT) ACT, 1938.]

[*Received the assent of the Governor on the 20th December 1938, first published in the Fort St. George Gazette on the 10th January 1939.*]

An Act further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for certain purposes.

Madras Act V of 1920.
Madras Act XIV of 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras District Municipalities and Local Boards (Amendment) Act, 1938.

Short title.

Madras Act V of 1920.

2. In the Madras District Municipalities Act, 1920—

Amendment of Madras Act V of 1920.

(i) after section 38, the following section shall be inserted, namely :—

[*Vide p. 363, Vol. III.*]

(ii) in section 71, after sub-section (2), the following sub-section shall be inserted, namely :—

[*Vide p. 383, Vol. III.*]

(iii) in the same section, in sub-section (4), for the words “ or engineer ”, the words “ engineer or electrical engineer ” shall be substituted ;

(iv) in section 72, in sub-section (1), for the words “ or engineer ”, the words “ engineer or electrical engineer ” shall be substituted ;

(v) in section 75, for the words “ or a municipal engineer ”, the words “ a municipal engineer or a municipal electrical engineer ” shall be substituted ;

(vi) in section 76-A, in clause (a), for the words “ or the municipal engineer ”, the words “ the municipal engineer or the municipal electrical engineer ” shall be substituted ;

(vii) in the same section, in clauses (b) and (c), for the words “ or engineer ”, the words “ engineer or electrical engineer ” shall be substituted ; and

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 22nd November 1938—Part IV, pages 217-218.

(viii) in the same section, in clause (d), for the words "and engineers", the words "engineers and electrical engineers" shall be substituted.

Amendment
of Madras
Act XIV of
1920.

3. In the Madras Local Boards Act, 1920—

Madras Act
XIV of
1920.

(i) after section 39, the following section shall be inserted, namely :—

[*Vide p. 662, Vol. III.*]

(ii) in section 68, in sub-section (1), for the words "a post of district engineer", the words "one or more posts of district engineer" and for the words "a post of district panchayat officer", the words "one or more posts of district panchayat officer" shall be substituted ; and

(iii) after section 69-B, the following section shall be inserted, namely :—

[*Vide p. 682, Vol. III.*]

MADRAS ACT No. XIX OF 1938.¹

[THE MADRAS MINOR PORTS FUND ACT, 1938.]

[*Received the assent of the Governor on the 4th January 1939, first published in the Fort St. George Gazette on the 10th January 1939.*]

An Act to provide for the disposal of the balance to the credit of the Minor Ports Fund in the Province of Madras.

WHEREAS under sub-section (6) of section 36 of the Indian Ports Act, 1908, the disposal of the balances from time to time standing to the credit of port fund accounts is subject to the provisions of any local law ;

AND WHEREAS the Provincial Government have directed that all minor ports in the Province of Madras should be regarded as constituting a single port with a common port fund called the Minor Ports Fund ;

AND WHEREAS subsequently the Tuticorin Port Fund has been constituted as a separate fund under the Tuticorin Port Trust Act, 1924 ;

AND WHEREAS it is expedient to provide by an Act of the Provincial Legislature for the disposal of the balance which is now standing and which may from time to time stand to the credit of the said Minor Ports Fund other than that of Tuticorin ;

It is hereby enacted as follows :—

Short title
and extent.

1. (1) This Act may be called the Madras Minor Ports Fund Act, 1938.

(2) It extends to the whole of the Province of Madras.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette (Extraordinary)*, dated 12th August 1938—Part IV, page 6 and *Fort St. George Gazette*, dated 4th October 1938—Part IV, page 184.

2. In this Act, 'Minor Ports Fund' means the common port fund of all the minor ports situated in the Province of Madras other than Tuticorin. Definition of 'Minor Ports Fund'.

3. The balance standing on the 31st day of March 1939 to the credit of the Minor Ports Fund in excess of twenty lakhs of rupees shall be credited to and shall be disposed of along with the rest of the revenues of the Province. Disposal of surplus on the 31st March 1939.

4. Such portion of the balance standing to the credit of the Minor Ports Fund on the 31st day of March in the year 1940 or in any subsequent year, as the Provincial Government may with the approval, by resolution, of the Madras Legislative Assembly, determine, shall be credited to and shall be disposed of along with the rest of the revenues of the Province. Disposal of subsequent surplus.

MADRAS ACT No. XX OF 1938.

[THE MALABAR TEMPLE ENTRY ACT, 1938.]

[Received the assent of the Governor on the 18th January 1939, first published in the Fort St. George Gazette on the 7th February 1939.]

An Act to remove the disabilities of certain classes of Hindus in regard to entry into temples in the district of Malabar.

WHEREAS the disabilities imposed by custom and usage on certain classes of Hindus in respect of their entry into, and offering worship in, Hindu temples should be removed,

AND WHEREAS, however, doubts have been entertained whether the trustees of such temples have the power in law to make any such innovation in practice,

AND WHEREAS it is just and expedient that these doubts should be removed and the trustees should be empowered by law to extend to all classes of Hindus the right of entry into, and worship in, temples if the Hindus in the locality who are now entitled to such entry are generally in favour of such extension,

AND WHEREAS, further, such extension of rights and privileges in Hindu temples to classes hitherto excluded has been recently ordered and peacefully brought into effect in one part of Kerala, and by reason of common traditions and identity of language, customs, forms of worship and the like the removal of the disabilities aforesaid has been not only more insistently demanded, but also made more easy of accomplishment in the first instance, in another part of Kerala,

It is hereby enacted as follows :—

1. (1) This Act may be called the Malabar Temple Entry Act, 1938. Short title and extent.

(2) It extends to the whole of the District of Malabar.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 30th August 1938—Part IV, pages 160-161.

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

- (1) ' Board ' means the Board of Commissioners constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926, or any other authority in which the powers and functions of the said Board in respect of a temple may for the time being be vested ; Madras Act II of 1927.
- (2) ' excluded class ' means any caste or class of the Hindu community which, by reason of any established usage or custom, is excluded from entering the temple concerned, or which, though admitted into the precincts of the temple, is not allowed entry into any part of the temple where the bulk of the worshippers are allowed ;
- (3) ' prescribed ' means prescribed by rules made under section 9 ;
- (4) ' temple ' means a place, by whatever designation known, which is used as a place of public worship by the Hindu community generally except excluded classes and which was at any time assessed to contribution under section 69 of the Madras Hindu Religious Endowments Act, 1926, on an annual income of not less than Rs. 5,000 ; and in any context with reference to entry shall mean every part of the temple which is open to the bulk of the worshippers : Madras Act II of 1927.

Provided that any temple which has been before the 1st of April 1938 declared by final decree or order of a competent court to be private property or accepted by the Board to be private property shall not be a temple for the purposes of this Act :

Provided further that any temple in respect of which a question as to whether it is private property has been already raised in a suit in a court of law or in an application before the Board registered before the 1st of April 1938, the temple shall not be deemed to be a temple for the purposes of this Act until the final decision in such a proceeding, and thereafter, it shall not be, or shall be, a temple for the said purposes according as the final decision declares or accepts the temple to be private property or not ;

- (5) ' trustee ' means a person by whatever designation known, in whom the administration of a temple is vested, whether in a hereditary capacity or not ;
- (6) ' voters ' means the Hindu voters, other than those belonging to excluded classes, on the electoral roll of the Madras Legislative Assembly for the time being in

force relating to the general constituency of the revenue taluk in which the temple is situated including the municipal areas therein, who are included in a list prepared under the rules made under section 9 ; and

- (7) 'worship' means such religious service as the bulk of the worshippers participate in, in accordance with the provisions of such regulations as may be made by the trustees for the maintenance of order and cleanliness and the due observance of the religious rites and ceremonies performed in the temple.

3. (1) On receipt by the trustees of a temple of a requisition in writing signed by not less than fifty voters requesting them to throw open the temple to persons belonging to excluded classes, the trustees shall forward the requisition to the Provincial Government and the Provincial Government shall thereupon direct the trustees to refer the matter to the voters and ascertain their opinion by votes taken by the prescribed method :

Requisition to trustees to throw open temples to excluded classes.

Provided that if the Provincial Government are of opinion that the requisition is not made for the furtherance of the objects of this Act, they may direct that no action be taken thereon.

(2) Where on such reference the result is found by a majority of the votes to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belonging to excluded classes.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustees of a temple to publish in the prescribed manner a notice to the effect that they propose to make an order throwing the temple open to persons belonging to excluded classes. Such notice shall also state that objections to the proposal may be preferred to the trustees at any time within one month from the date of the publication of the notice.

Power of trustees to issue notice of proposal to throw open temples to excluded classes.

(2) If within one month from the date of the publication of the notice referred to in sub-section (1), written objections to the proposal are preferred by not less than fifty voters, the same shall be forwarded to the Provincial Government, and thereafter, on a direction from them, the question whether the temple shall or shall not be thrown open to persons belonging to excluded classes shall be referred for the opinion of the voters as if a requisition had been received under sub-section (1) of section 3.

(3) If in any case where action under sub-section (1) is taken by the trustees, no objection as specified in sub-section (2) is preferred, or if on a reference made under sub-section (2),

the result is found to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belonging to excluded classes.

5. The Provincial Government may, at any time, before the results of any reference to the voters are announced, order that all further action in respect of such reference shall be suspended and upon such order all previous proceedings relating thereto shall be deemed to have been cancelled.

Power of trustees to throw open temples to excluded classes without reference to voters in certain cases.

6. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4 the result is found to be in favour of throwing a temple open to persons belonging to excluded classes, the trustees of any other temple situated in the same revenue taluk, within two years from the date of such reference, may of their own motion and shall on receipt of a requisition in writing signed by not less than fifty voters, publish in the prescribed manner an order to the effect that the temple shall be open to persons belonging to excluded classes.

Effect of order under section 3 (2), 4 (3) or 6.

7. Where an order has been published under sub-section (2) of section 3, or sub-section (3) of section 4, or section 6, it shall be lawful, notwithstanding any custom or usage to the contrary, for any person belonging to excluded classes to enter the temple concerned and participate in worship therein.

Fresh proceedings not to be taken in certain cases.

8. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4, the result is found to be against throwing the temple open to persons belonging to excluded classes, no further proceedings shall be taken either under sub-section (1) of section 3 or under sub-section (1) of section 4 for a period of two years from the date of such reference in respect of such temple or any other temple in the same revenue taluk.

Rules.

9. (1) The Provincial Government may make rules for the purposes of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power the Provincial Government may make rules—

- (a) with reference to all matters allowed to be prescribed by this Act ;
- (b) as to the form and presentation of the requisitions and objections referred to in sub-section (1) of section 3, section 4 and section 6 ;

- (c) as to the publication of orders and notices by trustees ;
- (d) as to the method by which the opinion of the voters shall be ascertained ;
- (e) as to the preparation and publication of lists of voters, and the decision of all disputes which may arise in connexion therewith ; and
- (f) as to the decision of all disputes which may arise in respect of requisitions and objections from voters under sections 3, 4 and 6 or in respect of references to voters under sections 3 and 4 and the ascertainment and publication of the results of such references.

(3) All rules made under this section shall be published in the official gazette and on such publication shall have effect as if enacted in this Act.

10. If any difficulty arises in giving effect to the provisions of this Act the Provincial Government, as occasion requires, may order the doing of anything necessary for the purpose of removing the difficulty.

11. (1) If any question arises as to whether a place is or is not a temple as defined in this Act the question shall be referred for the decision of the Provincial Government and their decision shall be final.

(2) The Provincial Government shall have power to exempt from the provisions of this Act such institutions as, in their opinion, are in the nature of family temples and may be exempted without prejudice to the objects of this Act.

12. In section 40 of the Madras Hindu Religious Endowments Act, 1926, the words and figures " Subject to the provisions of the Malabar Temple Entry Act, 1938," shall be inserted at the commencement.

Madras Act II of 1927.

Amendment of section 40, Madras Act II of 1927.

MADRAS ACT No. XXI OF 1938.¹

[THE REMOVAL OF CIVIL DISABILITIES ACT, 1938.]

[Received the assent of the Governor-General on the 24th January 1939, first published in the Fort St. George Gazette on the 7th February 1939.]

An Act to provide for the removal of civil disabilities among certain classes of Hindus.

WHEREAS it is increasingly felt by the Hindu community that the disabilities, which are imposed by social custom and usage on certain classes of Hindus commonly known as Harijans, Untouchables, or Depressed Classes, and which have been in certain matters even legally recognized in the

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 12th October 1937, Part IV, page 54.

adjudication of rights and duties in civil and criminal proceedings, are repugnant to modern conditions and ideas of justice and social solidarity, and should no longer be recognized by law or otherwise enforced ; It is hereby enacted as follows :—

Short title
and extent.

1. (1) This Act may be called the Removal of Civil Disabilities Act, 1938.

(2) It extends to the whole of the Province of Madras.

Social dis-
abilities not
to be recog-
nized by law.

2. Notwithstanding any law, custom, usage or prescription to the contrary, no Hindu shall, by reason merely of his belonging to any particular community or class known as Harijans, Untouchables, Depressed Class or the like, be prevented or disabled from being appointed to any public office, or enjoying or having access to any public stream, river, well, tank, pathway, sanitary convenience, or means of transport or any secular institution which the general public belonging to all other classes and communities of Hindus have a right to enjoy or have access to or which is dedicated or maintained or licensed for the use of the general public or which is maintained or paid for out of the funds of the State or a local authority ; and no Civil, Criminal or Revenue Court in adjudicating any matter or executing any order and no public or local authority in carrying on the affairs entrusted to such authority shall recognize any custom, usage or prescription under which it is sought to impose any civil disability on any person by reason of his belonging to any of the classes or communities aforesaid, or by reason of any acts or omissions on the part of such person which would not furnish grounds for such disability if he did not belong to such class or community.

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MADRAS ACT NO. I OF 1939.¹

[THE MADRAS REGISTRATION OF BIRTHS AND DEATHS
(AMENDMENT) ACT, 1939.]

[Received the assent of the Governor on the 14th February 1939,
first published in the Fort St. George Gazette on the 21st
February 1939.]

An Act to amend the Madras Registration of Births
and Deaths Act, 1899, for a certain purpose.

WHEREAS it is expedient to amend the Madras Registration of Births and Deaths Act, 1899, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Madras Act
III of 1899.

Short title.

1. This Act may be called the Madras Registration of Births and Deaths (Amendment) Act, 1939.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 20th December 1938, Part IV, page 308.

1939 : Mad. Act I] *Registration of Births and Deaths* 60k.

(Amendment)

1939 : Mad. Act II] *Elementary Education (Amendment)*.

Madras Act III of 1899. 2. In sub-section (1) of section 19 of the Madras Registration of Births and Deaths Act, 1899, for the words "the Tahsildar" in the first place where they occur, the words "a Tahsildar or Deputy Tahsildar", and for the words "the Tahsildar" in the second place where they occur, the words "the Tahsildar or Deputy Tahsildar" shall be substituted. Amendment of section 19, Madras Act III of 1899.

MADRAS ACT No. II OF 1939.¹

[THE MADRAS ELEMENTARY EDUCATION (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor on the 14th February 1939, first published in the Fort St. George Gazette on the 21st February 1939.]

An Act further to amend the Madras Elementary Education Act, 1920, the Madras Local Boards and Elementary Education (Amendment) Act, 1934, and the Madras Elementary Education (Amendment) Act, 1935, for certain purposes.

Madras Act VIII of 1920. Madras Act II of 1934. Madras Act XI of 1935. WHEREAS it is expedient further to amend the Madras Elementary Education Act, 1920, the Madras Local Boards and Elementary Education (Amendment) Act, 1934, and the Madras Elementary Education (Amendment) Act, 1935, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Elementary Education (Amendment) Act, 1939. Short title and commencement.
- (2) It shall come into force on such² date as the Provincial Government may, by notification in the Official Gazette, appoint.

Madras Act VIII of 1920. 2. In section 3 of the Madras Elementary Education Act, 1920 (hereinafter referred to as the said Act)— Amendment of section 3, Madras Act VIII of 1920.

- (i) in clause (ii), for the words "District Educational Officer" and "Inspectress of Girls' Schools" the words "and 'District Educational Officer'", and for the words "District Educational Officer or Inspectress of Girls' Schools", the words "or District Educational Officer" shall be substituted;
- (ii) clause (iii) shall be omitted; and
- (iii) in clause (vi), for the words and figures "under section 41", the words "by the Director of Public Instruction or by such authority as may be empowered by him in this behalf" shall be substituted.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, Extraordinary, dated 12th January 1939, Part IV, page 5.

² Came into force on the 1st June 1939.

602. *Elementary Education (Amendment) [1939 : Mad. Act II*

- Repeal of Chapter II, Madras Act VIII of 1920. 3. Chapter II of the said Act shall be omitted.
- Amendment of section 38, Madras Act VIII of 1920. 4. In sub-section (1) of section 38 of the said Act, the words " the district educational council and " shall be omitted.
- Repeal of Chapter IV, Madras Act VIII of 1920. 5. Chapter IV of the said Act shall be omitted.
- Amendment of section 45, Madras Act VIII of 1920. 6. In sub-section (1) of section 45 of the said Act, for the words " through the district educational council ", the words " through the Director of Public Instruction " shall be substituted.
- Amendment of section 45-A, Madras Act VIII of 1920. 7. In sub-section (1) of section 45-A of the said Act, the words " the district educational council and " shall be omitted.
- Amendment of section 47, Madras Act VIII of 1920. 8. In the proviso to sub-section (2) of section 47 of the said Act, for the words " the District Educational Council ", the words " the District Educational Officer " shall be substituted.
- Repeal of Chapter VI, Madras Act VIII of 1920. 9. Chapter VI of the said Act shall be omitted.
- Amendment of section 56, Madras Act VIII of 1920. 10. In sub-section (2) of section 56 of the said Act—
(i) clauses (c), (d) and (e) shall be omitted ;
(ii) in clause (f), the words " by district educational councils " shall be omitted ; and
(iii) clause (i) shall be omitted.
- Amendment of Schedule, Madras Act II of 1934. 11. Rules 9 and 10 of the Schedule to the Madras Local Boards and Elementary Education (Amendment) Act, 1934, shall be omitted. Madras Act II of 1934.
- Repeal of section 13, Madras Act XI of 1935. 12. Section 13 of the Madras Elementary Education (Amendment) Act, 1935, shall be omitted. Madras Act XI of 1935.
- Audit of accounts of district educational councils up to the commencement of the Act. 13. The accounts of every district educational council up to the date on which this Act comes into force, shall be examined and audited by an officer appointed by the Provincial Government in that behalf.

14. All orders of recognition in respect of elementary schools and all orders admitting elementary schools to aid, made or deemed to have been made by a district educational council before the commencement of this Act under sections 41 and 42 of the said Act respectively, shall be deemed to have been made by the Director of Public Instruction or by such authority as may be empowered by him after this Act comes into force to grant recognition to elementary schools or to admit elementary schools to aid, as the case may be, and any such order shall be liable to cancellation or modification as if it had been made after the commencement of this Act.

Continuance of orders according to recognition or admitting schools to aid.

15. All orders passed by a district educational council before the commencement of this Act under the proviso to sub-section (2) of section 47 of the said Act fixing the number of free places, shall have effect as if they had been passed after such commencement by the District Educational Officer.

Orders of a district educational council fixing the number of free places deemed to be those of the District Educational Officer.

16. (1) All property and all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by, or vested in, or held in trust by, or for, any district educational council constituted under the said Act, including all moneys standing to the credit of the fund referred to in section 28 of the said Act, as well as all liabilities legally subsisting against such council shall, on and from the date of the commencement of this Act, pass to the Provincial Government.

Devolution of properties and rights of district educational councils to Provincial Government and continuance of proceedings pending at the commencement of the Act.

(2) All proceedings taken by or against any district educational council and pending at the commencement of this Act may, after such commencement, be continued, subject to the provisions of this Act, by or against the Provincial Government or by or against such authority as may be designated by them in this behalf.

(3) Any remedy by way of application, suit or appeal available to or against a district educational council at the commencement of this Act shall, after such commencement, be available, subject to the provisions of this Act, to or against the Provincial Government.

17. The repeal of section 21 of the said Act by this Act shall not be deemed to affect the powers of the Provincial Government to act under that section in respect of any resolution passed or order issued by any district educational council

Power of Provincial Government to suspend action.

604 *Elementary Education (Amendment)* [1939 : Mad. Act II]

or the president thereof before the commencement of this Act, or in respect of any act which is about to be done or is being done at such commencement.

Power to
remove
difficulties
in giving
effect to Act.

18. If any difficulty arises in giving effect to the provisions of this Act or of the said Act as amended by this Act, the Provincial Government as occasion may require, may, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty.

THE MADRAS PUBLIC HEALTH ACT, 1939.

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*(Chapter I—Preliminary.)*MADRAS ACT No. III OF 1939.¹

[THE MADRAS PUBLIC HEALTH ACT, 1939.]

[Received the assent of the Governor on the 28th February 1939,
first published in the Fort St. George Gazette on the 7th
March 1939.]

An Act to make provision for advancing the Public
Health of the Province of Madras.

WHEREAS it is expedient to make provision for advancing
the public health of the Province of Madras ; It is hereby
enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Madras Public Health Short title
and extent.
Act, 1939.

(2) It extends to the whole of the Province of Madras.

2. (1) The provisions of this Act, except Chapter IX and Commence-
ment.
Part III of Chapter X, shall come into force in the whole
of the Province of Madras at once.

(2) The Government may, from time to time, by notifi-
cation, extend all or any of the provisions of Chapter IX to
any local area in the Province of Madras, and may cancel
or modify any such notification.

(3) (a) The provisions of Part III of Chapter X shall
come into force at once—

(i) in the City of Madras ; and

(ii) in every local area which has been, or may
hereafter be, declared to be a municipality under
the Madras District Municipalities Act, 1920.

(b) The Government may, from time to time, by
notification, extend the provisions of Part III of Chapter X
to any other local area in the Province of Madras, and may
cancel or modify any such notification.

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

(1) “ Building ” includes—

(a) a house, out-house, stable, latrine, godown, shed,
hut, wall (other than a boundary wall not exceeding
eight feet in height) and any other such structure,
whether of masonry, bricks, wood, mud, metal
or any other material whatsoever ;

(b) a structure on wheels or simply resting on the
ground without foundations ; and

(c) a ship, vessel, boat, tent, van and any other
such structure used for human habitation.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*
Extraordinary, dated 10th November 1938, Part IV, pages 75—95.

(Chapter I—Preliminary.)

- (2) "Cattle" includes elephants, camels, mules, asses, horses, cows, bulls, bullocks, buffaloes, sheep, goats and pigs and the young ones of these species.
- (3) "Dairy" includes—
- (a) any farm, cattle-shed, milk-store, milk-shop, or other place from which milk is sold or supplied for sale, or in which milk is kept for sale or manufactured for sale into butter, ghee, cheese, cream, curds, buttermilk, or dried, sterilized or condensed milk; and
- (b) in relation to a dairyman who does not occupy any premises for the sale of milk, any place in which he keeps the vessels used by him for the storage or sale of milk but does not include—
- (i) a shop or place in which milk is sold for consumption on the premises only; or
- (ii) a shop or place from which milk is sold or supplied for sale in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place.
- (4) "Dairyman" includes any person who sells milk, whether wholesale or by retail.
- (5) "Drain" means a house-drain or a drain of any other description, and includes a sewer, tunnel, culvert, ditch, channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water or subsoil water.
- (6) "Drug" means any substance used as medicine whether for internal or external use, or any substance used in the composition or preparation of such medicine.
- (7) "Dwelling house" means a building constructed, used or adapted to be used, wholly or principally, for human habitation or in connexion therewith.
- (8) "Executive Authority" means the Commissioner, Chairman, President, or other functionary of the local authority concerned, who is vested with general executive powers under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, as the case may be. Madras Act IV of 1919. Madras Act V of 1920. Madras Act XIV of 1920.
- (9) "Executive Officer" means the paid officer, if any, of the local authority who is vested with general executive powers in the local area for which such authority is constituted under the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, as the case may be. Madras Act IV of 1919. Madras Act V of 1920. Madras Act XIV of 1920.

(Chapter I—Preliminary.)

- (10) "Factory" means any premises including the precincts thereof, wherein any industrial, manufacturing or trade process is carried on with the aid of steam, water, oil, gas, electrical or any other form of power which is mechanically transmitted and is not generated by human or animal agency.
- (11) "Filth" means—
- (a) nightsoil and other contents of latrines, cesspools and drains ;
 - (b) dung and the refuse or useless or offensive material thrown out in consequence of any process of manufacture, industry or trade ; and
 - (c) putrid and putrefying substances.
- (12) "Food" includes every article consumed or used by man, for food, drink, or chewing, and all materials used or admixed in the composition or preparation of such article and shall also include flavouring and colouring matter and condiments.
- (13) "Government" means the Provincial Government as defined in clause (43-a) of section 3 of the General Clauses Act, 1897.
- (14) "Health Officer" means the Health Officer employed by the local authority concerned and if there is no such officer, the Health Officer of the district.
- (15) "House-drain" means any drain actually used, or intended to be used, for the drainage of one or more premises.
- (16) "Hut" means any building which is constructed principally of wood, mud, leaves, grass, thatch, or metallic sheets and includes any temporary structure of whatever size or any small building of whatever material made which the local authority may declare to be a hut for the purposes of this Act.
- (17) "Infectious disease" means an infectious disease as defined in section 52 and includes notified disease as defined in section 62.
- (18) "Latrine" includes privy, water-closet and urinal, whether public or private, or whether open or flush out.
- (19) "Local area" means the area within the jurisdiction of a local authority.
- (20) "Local authority" means—
- (a) in the City of Madras, the Corporation of Madras ;
 - (b) in any other municipal area, the municipal council concerned ;

(Chapter I—Preliminary.)

- (c) in any area in a district as defined in the Madras ^{Madras} Local Boards Act, 1920, which is comprised within ^{Act XIV} the jurisdiction of a panchayat, the panchayat ^{of 1920.} concerned ; and
- (d) in the case of all areas in a district defined as aforesaid, which are not comprised within the jurisdiction of a panchayat, the district board concerned.
- (21) “ Lodging house ” means a hotel, a boarding house, a choultry, dharmasala or rest-house not maintained by the Government or a local authority, an unlicensed emigration depot, or any place where casual visitors are received and provided with sleeping accommodation, with or without food, on payment, but does not include—
- (a) a students’ hostel under public or recognized control, or
- (b) a house licensed under section 125 for accommodating visitors to a fair or festival, or
- (c) retiring rooms provided in railway premises for the use of passengers or railway servants.
- (22) “ Magistrate ” does not include an honorary or a village magistrate.
- (23) “ Milk ” means the milk of a cow, buffalo, goat, ass, or other animal and includes cream, skimmed milk, separated milk, and condensed, sterilized or dessicated milk, or any other product of milk.
- (24) “ Notification ” means a notification in the Official Gazette.
- (25) “ Nuisance ” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity, or persons who may have occasion to use any public right.
- (26) “ Occupier ” includes—
- (a) any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, building or part ; and
- (b) a rent-free occupant.

(Chapter I—Preliminary.)

- (27) "Offensive matter" includes—
- (a) filth as defined in clause (11);
 - (b) sewage as defined in clause (33); and
 - (c) dirt, house sweepings, spittings including chewed betel and tobacco, kitchen or stable refuse, broken glass or pottery, debris and waste paper.
- (28) "Offensive trade" means any trade in which the substances dealt with are, or are likely to become, a nuisance.
- (29) "Owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person or estate or for any religious or charitable purposes, the rent or profits of the property in connexion with which the word is used.
- (30) "Prescribed" means prescribed by the Government by rules made under this Act.
- (31) "Private street" means any street, road, square, court, alley, lane, passage or riding-path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises.
- (32) "Public street" means any street, road, square, court, alley, lane, passage or riding-path whether a thoroughfare or not, over which the public have a right of way and includes—
- (a) the roadway over any public bridge or causeway;
 - (b) the footway attached to any such street, public bridge or causeway; and
 - (c) the drains attached to any such street, public bridge or causeway and the land whether covered or not by any pavement, veranda, or other structure which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to the Crown.
- (33) "Sewage" means nightsoil and other contents of latrines, cesspools or drains and includes trade effluents and discharges from manufactories of all kinds.
- (34) "Street" means a public or a private street.
- (35) "Urban local area" means the area within the jurisdiction of an urban local authority.

(Chapter I—Preliminary. Chapter II—Controlling Authorities and their Powers.)

- (36) "Urban local authority" means—
- (a) the Corporation of Madras ; or
 - (b) a municipal council ; or
 - (c) any panchayat notified by the Government as an urban local authority for the purposes of this Act, so long as the notification remains in force.
- (37) "Venereal disease" means syphilis, gonorrhoea, soft chancre, venereal granuloma or lympho granuloma.
- (38) "Water-course" includes any river, stream or channel, whether natural or artificial, other than a drain.
- (39) "Workplace" means any premises including the precincts thereof, (not being a factory or a workshop) wherein is carried on any industrial, manufacturing or trade process, at which not less than five persons are employed for wages or any other remuneration.
- (40) "Workshop" means any premises including the precincts thereof, (not being a factory) wherein any article or part of an article is made, repaired, altered, ornamented, finished or otherwise adapted for use on a commercial basis and not less than five persons are employed for that purpose for wages or any other remuneration.

CHAPTER II.

CONTROLLING AUTHORITIES AND THEIR POWERS.

Public Health Board.

- Constitution of the Public Health Board.
4. (1) As soon as may be after the commencement of this Act, the Government shall cause to be constituted for the Province of Madras a Public Health Board consisting of the following members, namely :—
- (a) The Minister for Public Health ;
 - (b) the Minister for Local Administration ;
 - (c) three Members of the Madras Legislature nominated by the Government ;
 - (d) the Surgeon-General with the Government of Madras ;
 - (e) the Director of Public Health ;
 - (f) the Sanitary Engineer ; and
 - (g) one other officer of the Government nominated by the Government.
- (2) Members nominated under clause (c) of sub-section (1) shall hold office for a period of one year from the date of nomination, but shall be eligible for re-nomination.

(Chapter II—Controlling Authorities and their Powers.)

(3) The Minister for Public Health shall be the President of the Public Health Board and the Director of Public Health shall be its Secretary.

5. (1) The Public Health Board shall advise the Government on such matters as the Government may from time to time refer to it. Functions of the Public Health Board.

(2) The meetings of the Board and the mode of transaction of business at such meetings shall be governed by such regulations as may be framed by it.

(3) The proceedings of the Board shall not be invalidated by reason of any vacancy in the office of the President, the Secretary, or a member.

Powers of the Government and of the Director of Public Health.

6. (1) The Government shall have power to inspect, control and superintend the operations of local authorities under this Act. Powers of the Government and of the Director of Public Health and his staff.

(2) The Government may, from time to time, define the powers to be exercised and the duties to be performed, by the Director of Public Health or any member of his staff for the purposes of sub-section (1).

(3) Nothing contained in sub-sections (1) and (2) shall be deemed to affect, or derogate from, any powers possessed by the Government or the District Collector under any other law for the time being in force.

7. The Director of Public Health may, from time to time as occasion requires, recommend for adoption, by any local authority, such measures as may be necessary for improving the public health administration in the local area, or for safeguarding the public health therein : Powers of the Director of Public Health to advise local authorities.

Provided that if on account of financial or other reasons, any local authority is unable to carry out such measures, or if there is any difference of opinion between the local authority and the Director, the matter shall be referred to the Government whose decision shall be final.

Public Health Establishments of Local Authorities.

8. (1) The public health establishment of every local authority (other than the Corporation of Madras) shall be on such scale as the Government may from time to time direct. Public Health staff in local areas.

(2) The authorities who may make appointments to the public health establishments referred to in sub-section (1), the conditions of service of the members of such establishments, and the duties of such members shall, notwithstanding

(Chapter II—Controlling Authorities and their Powers.)

anything contained in the Madras District Municipalities, Madras Act V of 1920. or the Madras Local Boards Act, 1920, be governed by regulations, not inconsistent with this Act, made by the Government. Such regulations may lay down the extent to which the Director of Public Health shall have disciplinary Madras Act XIV of 1920. control over the members of such public health establishments.

Appoint-
ment of the
Health
Officer.

9. (1) A local authority shall, if so required by the Government, include the post of a Health Officer in its establishment schedule.

(2) Notwithstanding anything contained in the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, the Government— Madras Act V of 1920.

(a) shall appoint the Health Officers of all the local authorities (other than the Corporation of Madras) in respect whereof a direction is issued under sub-section (1); and Madras Act XIV of 1920.

(b) may recover from each such local authority, the whole or such proportion of the salary and allowances paid to the Health Officer, and such contribution towards his leave allowances, pension and provident fund as the Government may, by general or special order, determine.

Appoint-
ment of
temporary
Health
Officers
in emer-
gencies.

10. (1) In the event of the prevalence or threatened outbreak of any infectious disease in any local area, or of any unusual mortality therein, the Government may, by order, appoint temporarily for such period as may be specified therein, one or more additional Health Officers, for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of, and preventing, such mortality, as the case may be.

(2) For the purpose of sub-section (1) the Government may appoint any medical practitioner registered under the Madras Medical Registration Act, 1914, either on an honorary Madras Act IV of 1914. basis or on such salary or allowances or both as the Government may fix. The salary and allowances shall be payable from the funds of the local authority.

Delegation
of powers of
Health
Officer.

11. The Government may, by general or special order, authorize any officer of the Government or of a local authority to exercise such of the powers of a Health Officer under this Act, in such area, and subject to such restrictions, limitations and conditions and to such control and revision, as may be specified in such order.

(Chapter II—Controlling Authorities and their Powers.)

12. (1) Notwithstanding anything contained in this Act or in any other Act or Acts governing the local authority or authorities concerned, the Government may, by general or special order, appoint any person or persons to carry out such provisions of this Act, and in such areas, as may be specified in the order. Appointment of persons to carry out the provisions of this Act.

(2) The expenses incurred by such person or persons in doing so shall be met from the funds of the local authority or authorities concerned, either wholly or in part, and, where more than one local authority is concerned, in such proportions, as may be determined by the Government.

13. (1) Subject to such rules as may be prescribed including rules for consultation with the executive authorities concerned, the Director of Public Health shall have power— Powers of Director of Public Health over public health staff of local authorities.

(a) to transfer any member of the public health establishment of a local authority to the public health establishment of another local authority ; and

(b) in times of emergency, to assign one or more members of the public health establishment of one local authority for temporary duty in the area of another local authority.

(2) Nothing contained in clause (a) of sub-section (1) shall apply to the Corporation of Madras.

(3) In the case referred to in clause (b) of sub-section (1), the local authority within whose jurisdiction the member or members of the public health establishment of another local authority are working, shall pay for the period of such temporary duty, the salary and allowances of such member or members and such contribution towards their leave allowances, pension and provident fund as the Government may, by general or special order, determine.

14. (1) The Health Officer in charge of any local area shall exercise supervision and control over all other members of the public health establishment in such area. Health Officer's control over public health staff.

(2) (a) Save as otherwise provided in this Chapter or in any rules or regulations made under it, all appointments, transfers and punishments of the members of the public health establishment under the supervision and control of the Health Officer shall be made by the Health Officer, subject to the approval of the executive authority.

(b) If for any reason the executive authority disagrees with the orders of the Health Officer under clause (a), the executive authority shall refer the matter to the Government whose decision shall be final.

(Chapter II—Controlling Authorities and their Powers.
Chapter III—Water-supply.)

Local authority to provide adequate facilities to the Health Officer.

15. Every local authority shall provide its Health Officer with such clerical assistance, office accommodation, furniture, equipment, stationery, and forms as may in the opinion of the Director of Public Health be necessary for the proper conduct of the business of such Health Officer.

Authorization of Health Officer to perform the functions of executive authority in public health matters.

16. Notwithstanding anything contained in the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, the Madras Prevention of Adulteration Act, 1918, and the Places of Public Resort Act, 1888, the Health Officer of a local authority shall perform such of the functions, and discharge such of the duties, of its executive authority in regard to public health matters under any of the provisions applicable to such local authority contained in the Acts aforesaid, subject to such appeal and control as the Government may, by general or special order, determine.

Madras Act IV of 1919.
Madras Act V of 1920.
Madras Act XIV of 1920.
Madras Act III of 1918.
Madras Act II of 1888.

CHAPTER III.

WATER-SUPPLY.

Local authority to provide potable water.

17. (1) Every local authority may, and if the Government so direct shall, provide or arrange for the provision of a sufficient supply of drinking water for consumption by the inhabitants of the area within its jurisdiction.

(2) The local authority shall, so far as may be practicable, make adequate provision for securing—

(a) that the water-supply is continuous throughout the year, and

(b) that the water supplied is at all times wholesome and fit for human consumption.

(3) A local authority may also provide or arrange for the provision of a sufficient supply of water for other domestic purposes or for non-domestic purposes.

Power of Government to direct local authority to execute water-works.

18. (1) If in the opinion of the Government, a local area does not possess a sufficient supply of wholesome water fit for the consumption of its inhabitants, they may direct the local authority concerned, either singly or in combination with the local authority or authorities having jurisdiction over any local area or areas in the neighbourhood which are similarly situated, to execute within such time as the Government may fix, such works as may be directed by the Government for providing a sufficient supply of wholesome water fit for human consumption.

(Chapter III—Water-supply.)

(2) A local authority may, with the previous sanction of the Government—

- (a) construct, lay, or erect filters, reservoirs, engines, conduits, pipes or other works without the limits of its local area, for supplying such area with water ;
- (b) purchase or take on lease any water-work, or any water, or any right to store or to take or convey water, either within or without the limits of its local area ; and
- (c) contract with any local authority or other person or agency for the supply of water.

(3) A local authority may, with the previous sanction of the Government, by public notice, declare any lake, stream, spring, well, tank, reservoir, pond, or other source of water-supply, whether within or without the limits of its local area (other than a source under the control of the Government), from which water is or may be made available for the use of the public in the local area for domestic purposes, to be a source of public water-supply for such purposes and every such source shall thereafter be under the control of the local authority, only to the extent necessary for such purposes.

19. The Government shall have power to take water from any water-main belonging to, or in the control of, a local authority for supplying water to any other area, subject to such payment being made to the local authority concerned and subject also to such other conditions as the Government may consider reasonable :

Power of Government to divert water from water-main belonging to a local authority.

Provided that before taking action under this section, the Government shall communicate to the local authority the grounds on which they propose to do so, fix a reasonable period for the local authority to show cause against the proposal, and consider its explanations or objections, if any.

20. (1) The Collector of the district, or any other officer appointed by the Government in this behalf, may cause inquiries to be made in any local area or part thereof, with a view to ascertaining—

Power of Collector in regard to water supply.

- (a) whether the source of water-supply for such local area or part is contaminated from any cause against which effective means of protection can be taken, and
- (b) whether the provision of any additional source or sources of water-supply is necessary for such local area or part.

(2) The Collector or other officer aforesaid may, after taking into consideration the result of such inquiries, by notice, direct that any source of water-supply be cleaned, improved,

(Chapter III—Water-supply.)

repaired or otherwise protected from contamination, or that such additional source or sources of water-supply be provided, as the case may be :

Provided that before issuing a notice under this sub-section, the Collector or other officer shall give the authorities or persons affected, a reasonable opportunity to make any representations they may wish to make and consider the same.

(3) Against any direction issued by the Collector or other officer under sub-section (2), an appeal shall lie to the Government whose decision shall be final.

(4) (a) Every notice issued under sub-section (2) shall specify the nature and extent of the works to be executed, the estimated cost thereof, and the authority or authorities or the person or persons by whom, and the period within which, they are to be executed.

(b) The notice shall either—

- (i) be published in the prescribed manner ; or
- (ii) be served on the local authority or on the person owning or having control over the source of water-supply, as the case may be, in the prescribed manner.

(5) If the directions contained in any notice issued under sub-section (2) have not been satisfactorily complied with, the officer issuing the notice may himself cause the works specified in the notice to be executed, provided that he may, on sufficient cause being shown, extend the period specified in the notice, or modify or rescind any direction contained therein.

(6) (a) If a water-tax is imposed in the local area, the cost of carrying out the works specified in the notice issued under sub-section (2), whether such works are executed by the authority or person specified therein or under sub-section (5) by the officer issuing the notice, shall be borne by the local authority concerned.

(b) If no water-tax is imposed in the local area, such cost shall be borne by the inhabitants of the local area who, on inquiry, are found to be benefited by the works or shall be shared between such inhabitants and the local authority concerned in such proportions as may be determined by the Government.

Explanation.—For the purposes of this sub-section, ' water-tax ' means—

(a) a tax levied under section 25 of this Act, or

(b) a water and drainage-tax levied under section 81 (1) (b) of the Madras District Municipalities Act, 1920, or under section 99 (1) (b) of the Madras City Municipal Act, 1919, or

Madras Act V of 1920.
Madras Act IV of 1919.

(Chapter III—Water-supply.)

Madras
Act XIV
of 1920.

(c) a tax levied under section 75 (2) of the Madras Local Boards Act, 1920, for the specific purpose of executing, maintaining or improving any work for the supply of water.

21. If the Director of Public Health is satisfied upon investigation that any source of public water-supply in a local area is contaminated or is subject to imminent risk of contamination by reason of unsatisfactory location, protection, construction, operation or maintenance, and speedy remedy or immediate prevention is, in his opinion, desirable, he may, by order, direct the local authority to take such measures as may be specified therein ; and the local authority shall take action accordingly.

Power of Director of Public Health to direct local authority to improve water-supply.

22. In the case of any railway in the Province of Madras the Government may, by general or special order, require the authority administering the railway to submit for analysis, to such person or institution, in such manner, and at such intervals, as may be prescribed, samples of drinking water supplied by such authority at any station or stations on such railway. For such analysis, the authority aforesaid shall pay to the Government such fee as may be prescribed by them.

Railway administrations to submit samples of drinking water for analysis.

23. The Government shall have power to make rules providing for the protection and periodical examination of sources of water-supply in the Province.

Rules for the protection and periodical examination of water-supply.

24. (1) The Health Officer may at any time by written notice require that the owner of, or any person having control over, any lake, stream, spring, well, tank, reservoir, pond or other source of water-supply which is used for drinking, bathing or washing clothes shall, whether the same is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (d) within such time as may be specified in the notice not being less than thirty-six hours from the receipt thereof—

Health Officer's powers in regard to insanitary sources.

- (a) keep and maintain any such source of supply in such manner as the Health Officer may direct ; or
- (b) cleanse any such source of water-supply from silt, refuse and vegetation ; or
- (c) protect any such source of water-supply from pollution by surface drainage in such manner as the Health Officer may direct ; or
- (d) fill in, repair, protect or enclose in such manner as the Health Officer may direct, any such source of water-supply, if for want of sufficient repair, protection or enclosure, such source of water-supply

(Chapter III—Water-supply.)

is in his opinion dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same ; or

- (e) desist from using, and from permitting others to use, for drinking purposes any such source of water-supply if, in the opinion of the Health Officer, the water is unfit for drinking ; or
- (f) close any such source of water-supply either temporarily or permanently, or fill up, enclose or fence the same in such manner as the Health Officer considers sufficient to prevent the use thereof for drinking purposes, if in his opinion the water is unfit for drinking ; or
- (g) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Health Officer considers to be either injurious to health or offensive to the neighbourhood :

Provided that the provisions of clauses (a) and (d) shall not apply to a stream :

Provided further that a notice shall not be issued under clause (f) unless a notice has first been issued under clause (e) and the source of water-supply in question continues to be used for drinking purposes notwithstanding the issue of such notice, and the Health Officer considers that such use cannot be prevented otherwise than by the issue of a notice under clause (f).

(2) If the owner or person having control as aforesaid fails or neglects to comply with any notice issued under subsection (1) within the time specified therein, the Health Officer may, if immediate action is necessary to protect the health or safety of any person or persons, at once proceed to execute the work specified in such notice ; and all the expenses incurred in respect thereof by the Health Officer shall be paid by the owner of, or person having control over such source of water-supply, and shall be recoverable as if it were a tax due to the local authority concerned :

Provided that in the case of any private source the water of which is used by the public or by any section of the public as of right, the expenses which have been incurred by the Health Officer or which, in the opinion of the local authority have been necessarily incurred by the owner of, or person having control over, the source of water-supply shall be paid from the funds of the local authority.

(Chapter III—Water-supply.)

25. (1) Any local authority may with the previous sanction of the Government, and shall, if so directed by them, levy within its area or any part thereof, any tax which may be necessary for providing water-supply in such area or part,

Levy of water-tax and earmarking the proceeds for water-works.

(2) Any tax levied under sub-section (1) may be a new tax levied on such basis assessed and realized in such manner as may be sanctioned or directed by the government, or may be a tax or additional tax levied under any head of taxation specified in any law for the time being in force governing the local authority concerned in which case all the provisions of such law relating to the incidence, assessment or realization of a tax under such head or in any manner connected therewith shall be applicable to the tax or additional tax, with such modifications and restrictions, if any, as may be prescribed.

(3) (a) The rates at which any tax may be levied under this section shall be determined by the local authority with the previous sanction of the Government in case the tax is levied by the local authority of its own motion, and by the Government in case the tax is levied at their direction.

(b) The local authority may with the previous sanction of the Government and shall, if so directed by them, alter the rates at which any such tax is to be levied.

(4) (a) Every local authority levying a tax under this section shall earmark the net revenue therefrom for expenditure on the execution, maintenance and improvement of works of water-supply in the local area or part thereof within which it is levied.

(b) Such revenue shall be expended in accordance with such orders as may be issued by the Government in this behalf.

(5) Nothing contained in this section shall be deemed to affect the power of the Corporation of Madras to levy a water and drainage tax under section 99 (1) (b) of the Madras City Municipal Act, 1919, or of any municipality governed by the Madras District Municipalities Act, 1920, to levy a water and drainage tax under section 81 (1) (b) of that Act.

Madras Act IV of 1919.
Madras Act V of 1920.

26. No owner of any dwelling-house which may be constructed or reconstructed after the commencement of this Act in any urban local area shall occupy it, or cause or permit it to be occupied, until he has obtained a certificate from an officer of the Public Health Department of the local authority concerned, not below the rank of Health or Sanitary Inspector, that there is within the house, or within a reasonable distance therefrom, a supply of wholesome water sufficient for the domestic purposes of the inmates of the house.

New house not to be occupied without adequate water-supply.

(Chapter IV—Drainage.)

CHAPTER IV.

DRAINAGE.

Local authority to maintain public drains.

27. (1) Every urban local authority shall, so far as the funds at its disposal may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual draining of its local area.

(2) If, in the opinion of the Government, any local area or part thereof should, for any special reason, be provided with a system of public drains or with any other means of drainage, they may direct the local authority to provide or execute, within such time as may be fixed by them in this behalf, such works as may be considered necessary by them.

(3) The local authority shall at all times keep in good repair all drains, cesspools and the like vested in or belonging to them.

Power of Health Officer to require drains to be constructed.

28. (1) If any premises are in the opinion of the Health Officer without sufficient means of effectual drainage, he may, by notice, direct the owner of such premises to construct a drain leading therefrom to the nearest public drain or other place set apart by the local authority for the discharge of sewage :

Provided that—

(a) the cost of constructing that portion of the drain which is situated more than one hundred feet from the said premises, shall be paid from out of the funds of the local authority concerned ; and

(b) if, in the opinion of the Health Officer, there is no public drain or other place set apart for the discharge of sewage within a reasonable distance of such premises, he may, by notice, require the owner of the premises to construct—

(i) a closed cesspool, tank, filter or other work of such material, size and description, as he may direct ; and

(ii) a house-drain communicating with such closed cesspool, tank filter or other work.

(2) Where by reason of a local authority changing its system of drainage or undertaking a new system of drainage, it becomes necessary for the owner of any premises to reconstruct or alter any drain, the cost of the reconstruction or alteration of such drain shall be borne wholly by the local authority, or wholly by the owner, or partly by the local authority and partly by the owner, in accordance with such rules as may be prescribed.

(Chapter IV—Drainage.)

29. Where a house-drain belonging to one or more premises has been laid in any private street which is common to more than one premises and the Health Officer considers it desirable that any other premises should be drained into such drain, he may, by notice, require the owner of such premises to connect his house-drain with such first-mentioned drain; and the owner or owners of such first-mentioned drain shall thereupon be bound to permit such connexion to be made :

Drains in private streets.

Provided that no such connexion shall be made—

- (a) except upon such terms as may be mutually agreed upon between or among the owners concerned, or
- (b) in default of such agreement, except upon such terms as may be laid down by the local authority and in particular, until any payment which may be directed by the local authority to be made to the owner or owners concerned, has been duly made.

30. (1) Drains for the drainage of huts shall be of such size and description, and be constructed of such material, as may be considered by the Health Officer to be practicable, having regard to the circumstances of the locality and the position of the nearest public drain or other place set apart by the local authority for the discharge of sewage.

Drainage for huts.

(2) If the Health Officer considers that a new drain should be constructed for the benefit of the occupants of any hut, he may, by notice, require the owner of the land on which such hut stands, to construct such drain and such owner shall construct such drain, and cause it to be cleansed and repaired to the satisfaction of the Health Officer.

31. For the purpose of efficiently draining any land or building the Health Officer may, by notice, require the owner of any court, yard, alley, lane, passage or open space—

Drainage of court, yard, alley, passage, etc.

- (a) to pave the same with such material and in such manner as may be approved by the Health Officer and to keep such paving in proper repair; or
- (b) to raise the level of such court, yard, alley, lane, passage or open space.

Explanation.—It shall be open to the Health Officer to require that in any case both the measures specified in clauses (a) and (b) of this section shall be taken.

32. (1) No person shall construct a cesspool—

- (a) beneath any part of any building or within fifty feet of any tank, reservoir, water-course or well or within such other distance therefrom as the Health Officer may consider to be practicable having regard to the circumstances of the locality; or

Construction and closure of cesspools.

(Chapter IV—Drainage.)

(b) within any local area, or outside such area but within three hundred feet of any reservoir used for the storage of filtered water to be supplied to such area, except upon a site and in a position which have been approved in writing by the Health Officer.

(2) The Health Officer may, at any time, by notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1) to remove such cesspool or to fill it up with such material as may be approved by him.

Prohibition of occupation of new building without drains.

33. No owner of any building constructed or reconstructed after the commencement of this Act in any urban local area shall occupy it, or cause or permit it to be occupied, until he has obtained a certificate from the Health Officer that the building has been provided with sufficient means of drainage.

Sullage or sewage not to be let out into streets.

34. No person having control over any building or land shall cause or allow—

- (a) the water of any sink, sewer, latrine or sanitary convenience, or any other liquid or other matter which is, or is likely to become, offensive, to run or drain into or to be thrown or put upon, any street or open space or to soak through any external wall ; or
- (b) any offensive matter from any sewer, latrine or sanitary convenience, to run, drain or be thrown into a surface drain in any street.

Injurious refuse not to be discharged into public drain.

35. No person shall, save as may be generally or specially prescribed, throw, empty, or turn, or suffer or permit to be thrown, emptied or turned or to pass, into any public drain, or into any drain communicating with a public drain—

- (a) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of such contents ; or
- (b) any liquid being refuse or stream or other liquid which is either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance, or prejudicial to health ; or
- (c) any explosive or inflammable substance.

Pollution of water-courses prohibited.

36. No person shall, save as may be generally or specially prescribed—

- (1) put, or cause to be put, or cause to fall or flow or be carried, or knowingly permit to be put or to fall or flow or be carried, into any water-course—
 - (a) any solid or liquid sewage matter, or

(Chapter IV—Drainage. Chapter V—Sanitary Conveniences.)

- (b) any poisonous, noxious or polluting liquid proceeding from any manufactory or manufacturing process, or
- (2) put, or cause to be put, or cause to fall or be carried, or knowingly permit to be put or to fall or be carried, into any water-course, so as, either singly or in combination with other similar acts of the same or any other person to interfere with the due flow of such water-course, or to pollute the water therein, the solid refuse of any manufactory, manufacturing process or quarry, or any rubbish or cinders, or any other waste or putrid solid matter, or
- (3) commit nuisance in or in the neighbourhood of any water-course.

CHAPTER V.

SANITARY CONVENIENCES.

37. Every local authority shall provide and maintain in proper and convenient places a sufficient number of sanitary conveniences for the use of the public and cause all such places to be kept in proper order so as not to be a nuisance or injurious to health.

Obligation of local authority to provide public sanitary conveniences.

38. If in any local area any building intended for human habitation is constructed or is reconstructed after being pulled down to or below the ground floor, the owner thereof shall provide such sanitary conveniences and in such positions as the Health Officer may, by notice, require.

New houses to be provided with sanitary conveniences.

39. (1) If any building intended for human habitation is without any sanitary convenience or if, in the opinion of the Health Officer, the sanitary convenience or conveniences provided therein are insufficient, having regard to the number of persons occupying the building, or are inefficient, or are objectionable on sanitary grounds, he may, by notice in writing, require the owner of such building—

Additional sanitary conveniences.

- (a) to provide such sanitary conveniences or such additional sanitary conveniences and in such positions, as may be specified in the notice ; or
- (b) to make such structural or other alterations as may be specified in the notice.

(2) Every owner of the ground on which a group of six or more huts stands shall provide such latrine accommodation, in such positions, and within such time as the Health Officer may, by notice, require, for the use of the inhabitants of such group of huts.

(Chapter V—Sanitary Conveniences, Chapter VI—Abatement of Nuisances.)

Mode of construction of latrines.

40. (1) All latrines shall—

- (a) be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood ; and
- (b) be maintained, repaired, altered and used in accordance with the rules and by-laws made under this Act.

(2) If any latrine opening on any street, whether such latrine be erected before or after the commencement of this Act, is so placed or constructed as to be a nuisance or offensive to public decency, the Health Officer may, by notice in writing, require the owner to remove it or to carry out such improvements therein and within such time as may be specified in the notice.

(3) When any latrine is used in common by the occupiers of two or more premises or by the members of two or more families, no person shall injure or improperly foul any such latrine or anything used in connexion therewith.

CHAPTER VI.

ABATEMENT OF NUISANCES.

Certain things to be nuisances.

41. Without prejudice to the generality of the definition of the expression "nuisance" contained in clause (25) of section 3, the following shall be deemed specifically to be nuisances for the purposes of this Chapter :—

- (1) any premises in such a state as to be prejudicial to health or a nuisance ;
- (2) any pond, pool, ditch, gutter, water-course, water-trough, latrine, cesspool, drain or ashpit which is so foul or in such a state as to be prejudicial to health or a nuisance ;
- (3) any animal kept in such a place or manner as to be prejudicial to health or a nuisance ;
- (4) any accumulation or deposit of refuse or other matter which is prejudicial to health or a nuisance ;
- (5) any factory (not being a factory governed by the provisions of the Factories Act, 1934), workshop or ^{XXV of} workplace, which is not provided with sufficient ^{1934.} means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein ;

(Chapter VI—Abatement of Nuisances.)

- (6) any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bake-house or gaswork, or in any manufacturing or trade process whatsoever ;
- (7) any chimney sending forth smoke in such quantity as to be a nuisance ; and
- (8) any noise, vibration, dust, cinders, irritating smell or offensive odour produced by a factory, workshop or workplace which is a nuisance to the neighbourhood.

42. Every urban local authority shall—

Detection of nuisance.

- (a) cause its local area to be inspected from time to time with a view to ascertain what nuisances exist therein calling for abatement under the powers conferred on such authority by this Act ; and
- (b) enforce the provisions of this Act in order to abate such nuisances.

43. Any person aggrieved by a nuisance in any local area may give information of the same to the Health Officer or any other officer of the public health establishment of the local authority.

Information regarding nuisance.

44. If the Health Officer is satisfied, whether upon information given under section 43 or otherwise of the existence of a nuisance, he may, by notice, require the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found, the owner or occupier of the premises on which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose :

Power of Health Officer to abate nuisance.

Provided that—

- (a) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises ; and
- (b) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or the occupier of the premises, the Health Officer may himself forthwith do what he considers necessary to abate the nuisance and to prevent a recurrence thereof.

45. If the person on whom a notice to abate a nuisance has been served under section 44 makes default in complying with any of its requirements within the time specified therein, or if the nuisance although abated within such time is, in the

Power of local authority to abate nuisance.

(Chapter VI—Abatement of Nuisances.)

opinion of the local authority, likely to recur on the same premises, the local authority may arrange for the execution of any works necessary to abate the nuisance or to prevent its recurrence, as the case may be, and may recover the cost from such person as if it were a tax due to the local authority.

Provision regarding house rendered unfit for occupation by reason of nuisance.

46. Where a house or other building is, in the opinion of the Health Officer, unfit for human habitation by reason of a nuisance existing therein, he may apply to a Magistrate (not being a Magistrate of the third class) to prohibit the use of such house or building for human habitation until it is rendered fit therefor.

Disposal of articles removed while abating nuisance.

47. (1) A local authority may sell any materials which have been removed by it from any premises (including any street), when executing works under this Chapter or otherwise carrying into effect the provisions thereof, if such materials are not claimed and taken away by the owner before the expiration of seven days from the date on which they were removed by the local authority.

(2) A local authority selling any materials under subsection (1) shall pay the sale-proceeds to the person to whom the materials belonged, after deducting therefrom the amount of any expenses recoverable from him by such authority.

(3) The provisions of this section shall not apply to any offensive matter removed by a local authority under the Act governing such authority.

Powers of entry and inspection.

48. The executive authority or any officer of the Public Health Department of the Government or of the local authority, not below the rank of Health or Sanitary Inspector, may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Chapter :—

Provided that—

- (a) no such entry shall be made between sunset and sunrise except when a nuisance is caused by anything done or omitted to be done in the premises between sunset and sunrise ;
- (b) no dwelling house shall be so entered without the consent of the occupier thereof, unless he has received at least twenty-four hours previous notice of the intention to make such entry ;
- (c) sufficient notice shall in every case be given to enable the inmates of any apartment appropriated to women to withdraw to some part of the premises where their privacy may be preserved ; and
- (d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the persons residing in the premises.

(Chapter VI—Abatement of Nuisances. Chapter VII—Prevention, Notification and Treatment of Diseases. Part I—Infectious Diseases in General.)

49. If the local authority or its Health Officer makes default in doing its or his duty under this Act in regard to the abatement or prevention of nuisances, the Government may authorize any of their officers to perform such duty and for that purpose to exercise any specified powers of the local authority or of its Health Officer or of both, in the local area concerned and the expenses incurred by such officers shall be met from the funds of the local authority.

Power of Government in case of default by local authority.

50. If a nuisance under this Act within, or affecting any part of, a local area, appears to be wholly or partly caused by some act or default committed or taking place outside such local area, the local authority may take or cause to be taken against any person in respect of such act or default any proceedings in relation to nuisances, authorized by this Act in the like cases and with the like incidents and consequences as if the act or default were committed or took place wholly within such local area.

Nuisance caused by act or omission outside local area.

51. (1) No person shall deposit, or cause or suffer any member of his family or household to deposit any carcasses of animals, any dust, dirt, dung, ashes or refuse or filth of any kind, any animal matter, any broken glass, earthenware or other rubbish, or any other thing which is or may be a nuisance, in any street or in any arch under a street, or in any drain beside a street, or on any open space (not being private property), or on any quay, jetty or landing place, or on any part of the sea-shore, or on the bank of any water-course, except in such receptacles as may be provided or at such places, in such manner and at such hours, as may be fixed by the Health Officer.

Prohibition of the deposit of rubbish, etc., in street, etc.

(2) No person shall ease himself, or cause, permit or suffer any member of his family or household to ease himself in any such street, arch, drain, open space, quay, jetty, landing place, sea-shore or bank aforesaid.

(3) Any person easing himself in any private open space shall immediately cover up the excreta with earth.

CHAPTER VII.

PREVENTION, NOTIFICATION AND TREATMENT OF DISEASES.

Part I.

Infectious Diseases in General.

52. For the purposes of this Part, 'infectious disease' means (a) acute influenza pneumonia, (b) anthrax, (c) cerebro-spinal fever, (d) chicken-pox, (e) cholera, (f) diphtheria, (g) enteric fever, (h) leprosy, (i) measles, (j) plague, (k) rabies,

Infectious diseases.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part I.—Infectious Diseases in General.)

(*l*) relapsing fever, (*m*) scarlet fever, (*n*) smallpox, (*o*) tuberculosis, (*p*) typhus or (*q*) any other disease which the Government may, from time to time, by notification, declare to be an infectious disease either generally throughout the Province or in such part or parts thereof as may be specified in the notification.

Appoint-
ment of
additional
health staff.

53. (1) In the event of the prevalence or threatened outbreak of any infectious disease in any local area, or of any unusual mortality therein, the local authority concerned shall provide such additional staff, medicines, appliances, equipment and other things as may, in the opinion of the Health Officer, be necessary for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of such mortality, and preventing it, as the case may be :

Provided that, if the local authority does not agree with the opinion of the Health Officer, the matter shall be referred to the Director of Public Health whose decision shall be final.

(2) In the event aforesaid, if the Health Officer considers that immediate action is necessary in the interests of public health, he may, notwithstanding anything contained in sub-section (1), appoint such additional staff and obtain such medicines, appliances, equipment and other things as may be necessary ; and the expenses incurred in respect thereof shall be met from the funds of the local authority.

(3) Every appointment made under sub-section (2) shall be reported forthwith to the executive authority and by such authority to the local authority concerned at its next meeting.

Provision
and
maintenance
of isolation
hospitals
and wards.

54. (1) (a) The local authority may, and if so required by the Government shall, provide or cause to be provided, hospitals, wards or other places for the reception and treatment of persons suffering from infectious diseases.

(b) For the purpose of the reception and treatment of such persons a local authority may—

(i) itself build such hospitals, wards or places of reception, or

(ii) contract for the use of any such hospital or part of a hospital or place of reception, or

(iii) enter into an agreement with any person having the management of any such hospital, for the reception and treatment therein of persons suffering from infectious diseases.

(c) For the purpose aforesaid, two or more local authorities may in combination provide a common hospital or place of reception.

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(2) A local authority shall not be deemed to have discharged its obligation under sub-section (1) unless the hospitals, wards or places of reception in question are maintained in accordance with such general or special orders as may from time to time be issued by the Director of Public Health.

55. A local authority may, and if so required by the Director of Public Health shall,—

(a) provide and maintain suitable conveyances, with sufficient attendants and other requisites, for the free carriage of persons suffering from any infectious disease ; and

(b) provide proper places and apparatus and establishment, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection ; and when any conveyances, clothing, bedding or articles are brought to any such place for disinfection, may cause them, at its discretion, to be disinfected, either free of charge, or on payment of such fee as it may fix.

Provision of ambulances, etc.

56. Every medical practitioner who in the course of his practice becomes cognizant of the existence of any case of enteric fever or tuberculosis in any private or public dwelling other than a public hospital shall, if the case has not been already reported, give information of the same with the least practicable delay—

(a) in municipal areas, to the executive authority, the Health Officer or a Sanitary Inspector ; and

(b) in non-municipal areas, to the Health Officer, a Health or Sanitary Inspector or the village headman.

Medical practitioners to give information of certain infectious diseases.

Explanation.—In this section, 'medical practitioner' includes a hakim or vaidya, whether registered or not.

57. (1) If it appears to the Health Officer that the water in any tank, well or other place, if used for drinking or any other domestic purpose, is likely to engender or cause the spread of any infectious disease, he may, by public notice, prohibit the removal or use of the said water generally or for any specified domestic purpose.

Prohibition of the use of water from suspected source.

(2) No person shall remove or use any water in respect of which any such notice has been issued in contravention of the terms thereof.

58. (1) If it appears to the Health Officer that any person is suffering from an infectious disease, and that such person—

(a) (i) is without proper lodging or accommodation, or
(ii) is lodged in a place occupied by more than one family, or

Removal of infected person to hospital.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part I—Infectious Diseases in General.)

- (iii) is without medical supervision directed to the prevention of the spread of the disease, or
- (iv) is in a place where his presence is a danger to the people in the neighbourhood ; and
- (b) should be removed to a hospital or other place at which patients suffering from such disease are received for treatment,

the Health Officer may remove such person or cause him to be removed to such hospital or place.

(2) If any woman who, according to custom, does not appear in public, is removed to any such hospital or place—

- (i) the removal shall be effected in such a way as to preserve her privacy ; and
- (ii) special accommodation in accordance with the custom aforesaid shall be provided for her in such hospital or place.

(3) No person shall leave, or be taken away from, any hospital or other place referred to in sub-section (1) without the permission of the medical officer-in-charge or of the Health Officer.

(4) Whoever—

- (a) obstructs the removal of any person to any hospital or other place under sub-section (1), or
- (b) leaves, or takes away any person from, any such hospital or place in contravention of sub-section (3),

shall be punished with imprisonment which may extend to three months, or with fine, or with both.

Prohibition of the exposure of other persons to infection.

59. (1) No person who knows that he is suffering from an infectious disease not specified in Part II of this Chapter shall expose other persons to the risk of infection by his presence or conduct in—

- (a) any market, theatre or other place of entertainment or assembly, or
- (b) any school, college, playground or such other place, or
- (c) any hotel, hostel, boarding house, choultry, rest-house, or club, or
- (d) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from an infectious disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of the Government or of a local authority, not below the rank

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of Health or Sanitary Inspector, or a medical practitioner registered under the Madras Medical Registration Act, 1914, that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from an infectious disease not specified in Part II of this Chapter shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

60. No person shall, while suffering from, or in circumstances in which he is likely to spread, any infectious disease—

(a) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food for human consumption ;

or
(b) engage in any other occupation without a special permit from the Health Officer of the local authority concerned or otherwise than in accordance with the conditions specified therein.

61. If, in any local area, any infectious disease transmissible to man breaks out or is in the opinion of the Health Officer likely to break out, amongst cattle, or other animals, it shall be the duty of the Health Officer to recommend to the local authority the adoption of such measures as he may deem necessary for suppressing or mitigating the disease or for preventing the outbreak or threatened outbreak thereof ; and the local authority shall consider such recommendations and take such action thereon as to it may seem suitable.

Part II.

Notified Infectious Diseases.

62. In this Part, notified disease means,

- (a) cerebro-spinal fever,
- (b) chicken-pox,
- (c) cholera,
- (d) diphtheria,
- (e) leprosy,
- (f) measles,
- (g) plague,
- (h) rabies,
- (i) scarlet fever,
- (j) smallpox,
- (k) typhus, or

(l) any other disease which the Government may from time to time by notification declare to be a notified disease for the purposes of this Part either generally throughout the Province or in such part or parts thereof as may be specified in the notification.

Notified
diseases.

Infected
persons not
to engage in
certain
trades and
occupations.

Prevention
of infectious
diseases
transmissible
from
animals.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part II—Notified Infectious Diseases.)

Occupation of houses to prevent the spread of infection

63. (1) The Health Officer may, in cases of emergency, with the sanction of the District Collector, enter upon, occupy and use, or depute any person to enter upon, occupy and use, without having recourse to the provisions of the Land Acquisition Act, 1894, any building or place which, in the opinion of the Health Officer, is required, and is suitable for any purposes connected with the prevention or control of infection from a notified disease : I of 1894.

Provided that, if the building or place is occupied, notice shall be given in writing to the occupant, or be conspicuously affixed on such building or place, not less than thirty-six hours before it is entered upon.

(2) The owner or lessee of such building or place shall be entitled to compensation for any damage or expenses incurred and to a reasonable rent for the period during which it had been occupied or used for any of the purposes referred to in sub-section (1). Such compensation and rent shall be fixed by the District Collector.

(3) The Health Officer shall, when any such building or place ceases to be occupied or used for any of the purposes aforesaid, cause it to be thoroughly disinfected and cleansed.

Information regarding notified disease.

64. Every medical practitioner who, in the course of his practice, becomes cognizant of the existence of any notified disease in any private or public dwelling other than a public hospital and

every manager of any factory or public building, every keeper of a lodging house, every head of a family and every owner or occupier of a house, who knows or has reason to believe that any person in any premises under his management, control or occupation is suffering from, or has died of, a notified disease,

shall, if the case has not been already reported, give information of the same with the least practicable delay—

- (a) in municipal areas, to the executive authority, the Health Officer or a Sanitary Inspector, and
- (b) in non-municipal areas, to the Health Officer, a Health or Sanitary Inspector or the village headman.

Explanation.—In this section, ‘medical practitioner’ includes a hakim or vaidya, whether registered or not.

Power of entry of local officers to take preventive measures.

65. (1) The Health Officer or any person authorized by him in this behalf may—

- (a) at all reasonable hours, inspect with or without assistants any place in which any notified disease is reported or suspected to exist, without notice in the

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case of factories, workshops, workplaces, offices, business places and the like and after giving such notice as may appear to him reasonable in other cases, including dwelling houses ; and

(b) take such measures as he may consider necessary to prevent the spread of such disease beyond such place.

(2) The powers conferred by sub-section (1) on the Health Officer may, in municipal areas, be exercised also by the executive authority or any person authorized by such authority.

66. (1) If it appears to the Health Officer that the destruction of any hut or shed is necessary to prevent the spread of any notified disease, he may, after giving to the owner and the occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

Destruction of hut or shed to prevent spread of infection.

(2) Such compensation as the local authority may consider reasonable, shall be paid to any person who in its opinion sustains loss by the destruction of any hut or shed under the powers conferred by sub-section (1) ; but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

67. If, on the application of the Health Officer, a Magistrate (not being a Magistrate of the third class) is satisfied that it is necessary in the interests of public health that a lodging house or any place where articles of food are sold, or prepared, stored, or exposed for sale, or distributed, should be closed on account of the existence or recent occurrence in such lodging house or place of a case of notified disease, the Magistrate may, by order, direct it to be closed until the expiry of such period as may be specified in the order or until it is certified by the Health Officer to be free from infection.

Closure of lodging houses.

68. No person shall—

(1) send or take to any laundry or public wash-house or any public water-course, tank or well, for the purpose of being washed, or to any place for the purpose of being cleaned, any clothing, bedding or other article which he knows to have been exposed to infection from any notified disease, unless such article has been disinfected by, or to the satisfaction of, the Health Officer, or a registered medical practitioner, or unless under instructions from such a person, it is

Infected clothes not to be sent to laundry.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part II—Notified Infectious Diseases.)

sent with proper precautions to a laundry for the purpose of disinfection with notice that it has been exposed to infection ; or

- (2) place or cause or permit to be placed in any dust-bin or other receptacle for the deposit of refuse any matter which he knows to have been exposed to infection from a notified disease and which has not been disinfected.

Infected persons not to use public conveyance.

69. (1) No person who knows that he is suffering from a notified disease shall—

- (a) enter any public conveyance used for the conveyance of passengers at separate fares, or

- (b) enter any other public conveyance,

without previously notifying the owner, driver or conductor thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notified disease shall permit that person to be carried—

- (a) in any public conveyance used for the conveyance of passengers at separate fares, or

- (b) in any other public conveyance,

without previously notifying the owner, driver or conductor thereof that the person is so suffering.

(3) The owner, driver, or conductor of a public conveyance used for the conveyance of passengers at separate fares shall not convey therein a person whom he knows to be suffering from a notified disease, at any time when a passenger not suffering from such disease is being conveyed therein :

Provided that a person suffering from a notified disease may be conveyed in the public conveyance aforesaid, in such cases of emergency and subject to such restrictions and safeguards as may be notified by the Government.

(4) The owner or driver of any other public conveyance may refuse to convey therein any person suffering from a notified disease until he has been paid a sum sufficient to cover any loss and expense which will be incurred by reason of the provisions of the next succeeding sub-section.

(5) If a person suffering from a notified disease is conveyed in a public conveyance, the person in charge thereof shall as soon as practicable give notice to the Health Officer of the local area in which the conveyance is usually kept and before permitting any other person to enter the conveyance shall cause it to be disinfected.

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(6) The local authority when so requested by the person in charge of a public conveyance in which a person suffering from a notified disease has been conveyed shall provide for its disinfection.

70. No person shall, without a special permit from the Health Officer, let or sub-let, or permit or suffer any prospective tenant to enter, a building in which he knows or has reason to know that a person has been suffering from a notified disease, within the three months immediately preceding.

Letting or sub-letting a building occupied by an infected person.

71. (1) No person who knows that he is suffering from a notified disease shall expose other persons to the risk of infection by his presence or conduct in—

Prohibition of the exposure of other persons to infection.

- (a) any street or public place, or
- (b) any market, theatre or other place of entertainment or assembly, or
- (c) any school, college, playground or such other place, or
- (d) any hotel, hostel, boarding house, choultry, rest-house, or club, or
- (e) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from a notified disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of the Government or of a local authority, not below the rank of Health or Sanitary Inspector, or a medical practitioner registered under the Madras Medical Registration Act, 1914, that he is so suffering.

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(2) No person who has the care of a person whom he knows to be suffering from a notified disease shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

72. (1) If a case of notified disease occurs on any premises, the Health Officer may, whether the person suffering from the disease has been removed from the premises or not, make an order forbidding any work to which this section applies, to be given out to any person living or working on those premises or in such part thereof as may be specified in the order, and any order so made may be served on the occupier of the factory from which the work is given out or on any contractor employed by such occupier.

Forbidding work in infected premises.

(2) An order under this section may be expressed to be operative for a specified time or until the premises or any part thereof specified in the order have been disinfected to the

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satisfaction of the Health Officer, or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be notified by the Director of Public Health.

Prohibition of use of public library by infected person.
Disposal of bodies of persons dying while suffering from notified disease.

73. No person who knows that he is suffering from a notified disease shall take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

74. (1) No person having the charge or control of the body of any person who has died while suffering from a notified disease shall permit or suffer persons to come unnecessarily into contact with, or proximity to, the body.

(2) No person shall, without the sanction in writing of an officer of the Public Health Department of the Government or of the local authority concerned, not below the rank of Health or Sanitary Inspector, retain in any premises (elsewhere than in a public mortuary) for more than twelve hours the body of any person who has died while suffering from any notified disease.

(3) (a) If any such body (not being a body kept in a mortuary) remains undisposed of for more than twelve hours without the sanction referred to in sub-section (2), or

if the dead body of any person is retained in any building so as to endanger the health of the inmates of such building, or of any adjoining or neighbouring building, any Magistrate may, on the application of any officer referred to in sub-section (2), order the body to be removed and disposed of within a specified time.

(b) A Magistrate may, in the case of the body of a person who has died while suffering from a notified disease, or in any other case in which he considers the immediate disposal of the body necessary, direct the body to be so disposed of, unless the friends or the relatives of the deceased undertake the disposal of the body within a time specified in the order.

(c) The expenses of the removal and disposal of any body under clause (a) or clause (b) shall be borne by the local authority; but such expenses may be recovered, as if it were a tax due to it, by the local authority from any person who would have been legally liable therefor but for such removal and disposal, unless in the opinion of the local authority he is too poor to do so.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part II—Notified Infectious Diseases.)

(4) (a) If any person dies in a hospital or a place of temporary accommodation for the sick while suffering from a notified disease, and the Health Officer certifies that in his opinion it is desirable, in order to prevent the spread of infection that the body should not be removed from such hospital or place except for the purpose of being taken direct to a burial or burning ground or a crematorium for being forthwith buried or cremated, no person shall remove the body from the hospital or place except for such a purpose.

(b) When the body is removed for the purpose aforesaid, it shall forthwith be taken direct to a burial or burning ground or a crematorium, and there buried or cremated with the least practicable delay.

(5) Without the permission of the Health Officer or a Magistrate, no person shall cause or permit to be carried in a public conveyance the dead body of any person who has died while suffering from a notified disease.

75. In the event of the prevalence of a notified disease in any local area, on the application of the Health Officer, any Magistrate, not being a Magistrate of the third class, having local jurisdiction shall have power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in his opinion such assemblages in such place, in such circumstances, or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

Power of Magistrate to prohibit an assembly of more than fifty persons.

76. (1) In the event of the prevalence or threatened outbreak of a notified disease in any local area, the Government may, by notification—

Power of Government to confer special powers on officers to control notified diseases.

(a) declare that such local area is visited or threatened with an outbreak of notified disease, and

(b) confer on the Health Officer or any other officer of the local authority concerned, or on any officer of the Government, all or any of the powers specified in subsection (2).

(2) The powers which may be conferred under subsection (1) are—

(a) power to order the evacuation of infected houses and houses adjoining them or in their neighbourhood, or generally of all houses in an infected locality ;

(b) power to make vaccination and preventive inoculations compulsory subject to the provisions of subsection (3) ;

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(c) power to direct—

- (i) that persons arriving from places outside the local area, or residing in any building adjacent to, or in the neighbourhood of, an infected building, shall be examined by any specified medical officer or by any one of a specified class of medical officers ;
- (ii) that the clothing, bedding or other articles belonging to such persons shall be disinfected, if there is reason to suspect that they have been exposed to infection ; and
- (iii) that any such person shall give his address and present himself daily for medical examination at a specified time and place, for a period not exceeding ten days ;

(d) power to take such measures as may be necessary—

- (i) in respect of, or in relation to, persons exposed to infection from any notified disease, or likely to infect other persons with any such disease, and
- (ii) in respect of, or in relation to, articles exposed to infection from any notified disease, or likely to infect persons with any such disease,

including, in case (i) the placing of restrictions on the movements of such persons, and in case (ii), the destruction of such articles and the placing of restrictions on their export from, import into, or transport within, the local area ;

(e) power to direct that at any place within or outside the local area, any consignment of grain exported from, or imported into, such area by rail, road or otherwise, shall be examined and, if necessary, unloaded and disinfected in any specified manner ; and

(f) power to close all or any existing markets and to appoint special places where markets may be held.

(3) (a) If any person who, or a child in whose care, is sought to be vaccinated or inoculated in pursuance of the power referred to in clause (b) of sub-section (2), declares before a Magistrate specially empowered by the Government in this behalf that as a result of a careful inquiry into the subject, he believes that such vaccination or inoculation will be injurious to his health or the health of the child, as the case may be, the Magistrate may, after giving notice to the Health Officer and hearing any representations made by him or on his behalf, exempt such person or child from vaccination or inoculation, on condition of the person aforesaid undertaking to

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subject himself and the members of his family to isolation of such description and for such period and to such further restrictions, if any, as may be directed by the Magistrate :

Provided that any exemption granted under this clause shall cease to have effect after a conviction under clause (b) and no exemption shall be granted to any person who has been so convicted.

(b) Any person who commits a breach of any undertaking given by him under clause (a) shall be punished with imprisonment which may extend to three months, or with fine, or with both.

(4) Any officer on whom powers are conferred by a notification under sub-section (1) shall, subject to such limitations, restrictions and conditions, if any, as the Government may in the same or in any subsequent notification impose, exercise every power so conferred on him until it is withdrawn by notification.

(5) The local authority may, in its discretion, give compensation to any person who in its opinion has sustained substantial loss by the destruction of any property under the powers conferred by this section ; but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

77. (1) The occupier of every premises, or if the premises are unoccupied, the owner thereof, shall take such steps as may be reasonably practicable for the destruction of rats, mice and other animals susceptible to plague infesting such premises. Destruction of rats, mice, etc.

(2) Where the Health Officer is of opinion that the occupier or owner of any premises has failed to fulfil the obligation laid on him by sub-section (1), he may either—

(a) serve a notice on such occupier or owner, requiring him to take such steps and within such time as may be specified in the notice, or

(b) enter upon such premises and take such steps as may be necessary for the purpose of destroying the rats, mice and other animals susceptible to plague infesting the same, after giving not less than twenty-four hours previous notice to such occupier or owner.

(3) Any expenses incurred under clause (b) of sub-section (2) may be recovered by the local authority concerned from the occupier or owner, as the case may be, as if it were a tax due from him to the local authority.

(Chapter VII—Prevention, Notification and Treatment of Diseases. Part III—Venereal Diseases. Part IV—Power to make rules.)

Part III.

Venereal diseases.

Provision for treatment of venereal disease by local authorities.

78. (1) A local authority may, and if so required by the Government shall, make such arrangements in its local area as may be directed by the Government for—

- (a) the free diagnosis and treatment of persons suffering, or suspected to suffer, from venereal diseases; and
- (b) the prevention of infection from such diseases.

(2) The local authority may for the purpose mentioned in sub-section (1), enter into a contract—

- (a) with any other local authority, or
- (b) with a hospital or medical institution recognized by the Government in this behalf, or
- (c) with the sanction of the Government, with any medical practitioner registered under the Madras Medical Registration Act, 1914.

Madras Act IV of 1914.

Patient to be instructed in methods of prevention of spread of venereal disease.

79. Every physician or other person treating, or examining with a view to treatment, a person having a venereal disease shall, at the first visit—

- (a) impress upon such person the necessity for treatment until the cure is effected;
- (b) instruct him in regard to the measures necessary for preventing the spread of the disease; and
- (c) furnish him with such other information relating to the disease as may be provided by the Director of Public Health.

Certain medical practitioners to certify as to freedom from venereal disease.

80. Every medical practitioner registered under the Madras Medical Registration Act, 1914, and included in a panel published by the Government for the purposes of this section shall be bound, at the instance of a person desirous of obtaining a certificate under this section and on payment of a fee of five rupees, to examine such person, and if he finds that that such person is not suffering from a venereal disease, or has been cured thereof, to furnish to such person a certificate to that effect in the prescribed form.

Madras Act IV of 1914.

Part IV.

Power to make rules.

Rules for the prevention, treatment and control of certain diseases.

81. The Government shall have power to make such rules as they deem fit for the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases and the rules may declare by what authority or authorities such rules shall be enforced and executed.

(Chapter VIII—Maternity and Child-Welfare. Chapter IX—Mosquito Control.)

CHAPTER VIII.

MATERNITY AND CHILD-WELFARE.

82. Every local authority shall be bound to carry out such measures pertaining to maternity and child-welfare as may be prescribed.

Local authority to carry out maternity and child-welfare measures.

CHAPTER IX.

MOSQUITO CONTROL.

83. (1) If the provisions of this section have been extended to any local area, no person or local authority shall, after such extension—

Prohibition of mosquito breeding in collections of water.

- (a) have, keep, or maintain within such area any collection of standing or flowing water in which mosquitoes breed or are likely to breed, or
- (b) cause, permit, or suffer any water within such area to form a collection in which mosquitoes breed or are likely to breed,

unless such collection has been so treated as effectively to prevent such breeding.

Explanation.—Troughs used for cattle and in frequent use shall not, until the contrary is proved, be deemed to be collections of water in which mosquitoes breed or are likely to breed.

(2) The natural presence of mosquito larvæ in any standing or flowing water shall be evidence that mosquitoes are breeding in such water.

84. (1) The Health Officer may, by notice in writing, require the owner or the occupier of any place containing any collection of standing or flowing water in which mosquitoes breed or are likely to breed, within such time as may be specified in the notice, not being less than twenty-four hours, to take such measures with respect to the same, or to treat the same by such physical, chemical or biological method, being measures or a method, approved by the Director of Public Health, as the Health Officer may consider suitable in the circumstances.

Treatment of mosquito breeding places.

(2) If a notice under sub-section (1) is served on the occupier, he shall, in the absence of a contract, expressed or implied, to the contrary, be entitled to recover from the owner the reasonable expenses incurred by him in taking the measures or adopting the method of treatment, specified in the notice, and may deduct the amount of such expenses from the rent which is then, or which may thereafter be, due from him to the owner.

(Chapter IX—Mosquito Control. Chapter X—Sanitation
and Buildings. Part I—Residential Areas.)

Health
Officer's
powers in
case of
default.

85. If the person on whom a notice is served under section 84 fails or refuses to take the measures, or adopt the method of treatment, specified in such notice within the time specified therein, the Health Officer may himself take such measures or adopt such treatment and recover the cost of doing so from the owner or occupier of the property, as the case may be, in the same manner as if it were a property tax.

Protection
of anti-
mosquito
works.

86. Where, with the object of preventing the breeding of mosquitoes in any land or building, the Government or any local authority, or the owner or occupier at the instance of the Government or any local authority, has constructed any works in such land or building, the owner for the time being as well as the occupier for the time being of such land or building shall prevent its being used in any manner which causes, or is likely to cause, the deterioration of such works, or which impairs, or is likely to impair, their efficiency.

Prohibition
of inter-
ference with
such works.

87. (1) No person shall, without the consent of the Health Officer, interfere with, injure, destroy or render useless, any work executed or any material or thing placed in, under, or upon any land or building, by or under the orders of the Health Officer with the object of preventing the breeding of mosquitoes therein.

(2) If the provisions of sub-section (1) are contravened by any person, the Health Officer may re-execute the work or replace the materials or things, as the case may be, and the cost of doing so shall be recovered from such person in the same manner as if it were a property tax.

Power of
Health staff
to enter and
inspect
premises.

88. For the purpose of enforcing the provisions contained in this Chapter, the Health Officer or any of his subordinates not below the rank of Health or Sanitary Inspector may, at all reasonable times, after giving such notice in writing as may appear to him reasonable, enter and inspect any land or building within his jurisdiction; and the occupier or the owner, as the case may be, of such land or building, shall give all facilities necessary for such entry and inspection, and supply all such information as may be required of him for the purpose aforesaid.

CHAPTER X.

SANITATION AND BUILDINGS.

Part I.

Residential Areas.

Notification
of residential
areas.

89. (1) Every urban local authority shall, within one year from the commencement of this Act or within such further time as the Government may allow in the case of any such

(Chapter X—Sanitation and Buildings. Part I—Residential Areas.)

authority, notify in the prescribed manner the localities, divisions, wards, streets or portions of streets in its local area which shall be reserved for residential purposes.

(2) An urban local authority may, at any time subsequent to the issue of a notification under sub-section (1), notify additional localities, divisions, wards, streets or portions of streets, as areas which shall be reserved for residential purposes.

(3) A notification issued under sub-section (1) or sub-section (2) may declare that operations in any factory, workshop or workplace in existence at the time when it comes into force, or that the continuance of any offensive trade carried on by any person at such time, shall be subject to such restrictions, limitations and conditions as may be specified in the notification.

90. (1) Before issuing a notification under section 89, the local authority shall—

Approval of Director of Public Health and of Director of Town-Planning to be obtained for notification.

(a) obtain the approval both of the Director of Public Health and of the Director of Town-Planning in regard to—

(i) the suitability of the areas proposed to be reserved for residential purposes ; and

(ii) the restrictions, limitations and conditions, if any, proposed to be imposed under sub-section (3) of section 89 ; and

(b) publish in the prescribed manner for general information the situation and limits of the areas proposed to be reserved for residential purposes and the restrictions, limitations and conditions, if any, proposed to be imposed under sub-section (3) of section 89, and consider all objections received by it within six weeks of such publication.

(2) In the event of a difference of opinion between the local authority and the Director of Public Health or the Director of Town-Planning, the matter shall be referred to the Government whose decision shall be final.

91. Any person aggrieved by the issue of a notification under section 89, may appeal to the Government whose decision shall be final.

Appeal against notification.

92. Upon the issue of a notification under section 89, the following consequences shall ensue, namely :—

Consequences of notification.

(a) The construction or establishment of any new factory, workshop or workplace, or the carrying on of any new offensive trade in the areas specified in the notification shall be absolutely prohibited.

(Chapter X—Sanitation and Buildings. Part I—Residential Areas. Part II—Control over Insanitary Buildings.)

(b) In the case of any factory, workshop or workplace in existence at the time when the notification comes into force or of any offensive trade in existence at such time, the restrictions, limitations and conditions, if any, specified in the notification, shall be observed in the areas aforesaid.

Explanation (1).—If work in any factory, workshop, or workplace existing at the time when the notification under section 89 comes into force or any offensive trade carried on by any person at such time ceases to be carried on for a continuous period of not less than one year, the resumption of work in such factory, workshop, or workplace or of such offensive trade, as the case may be, shall, unless the Government otherwise order, be deemed to be absolutely prohibited under clause (a).

Explanation (2).—In the case referred to in Explanation (1), where the period exceeds six months but does not extend to one year, work in the factory, workshop or workplace or the offensive trade, as the case may be, shall not be resumed without the written permission of the Health Officer unless the Government otherwise order.

Extension of sections 89 to 92 to non-urban local authorities.

93. The Government may, by notification, direct that the provisions of sections 89 to 92 shall apply to any non-urban local authority specified in such notification; and thereupon, the provisions of those sections shall apply to such authority as if it were an urban local authority and as if the reference to the commencement of this Act in sub-section (1) of section 89 were a reference to the date of publication of the notification under this section.

Part II.

Control over Insanitary Buildings.

New building not to be erected on certain sites.

94. (1) No person shall erect a new building on any ground which has been filled up with faecal or offensive vegetable or offensive animal matter or upon which any such matter has been deposited, unless and until the Health Officer certifies that such matter has been properly removed by excavation or otherwise, or has become or been rendered innocuous.

(2) Against the refusal of the Health Officer to issue a certificate under sub-section (1), an appeal shall lie to the Government whose decision shall be final.

Cleansing of court, yard or passage used in common.

95. (1) If any court, yard or passage which is used in common by the occupants of two or more buildings, but is not a public street, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the Health Officer, he may cause such court, yard or passage to be swept and cleansed.

(Chapter X—Sanitation and Buildings. Part II—Control over Insanitary Buildings. Part III—Abatement of Overcrowding.)

(2) The local authority may recover any expenses reasonably incurred by the Health Officer under sub-section (1) from the occupants of the buildings which front or abut on the court or yard, or to which the passage affords access, in such proportions as may be determined by the Health Officer.

96. (1) If any dwelling house or portion thereof appears to the Health Officer to be unfit for the purpose of human habitation, he may in cases not falling under section 46, apply to the local authority to prohibit the use thereof for such purpose, and such authority shall make an order prohibiting the use of such dwelling house or portion for human habitation until in the opinion of the Health Officer it is rendered fit therefor :

Dwelling house unfit for human habitation to be vacated.

Provided that before making an order under this sub-section, the local authority shall give the owner and the occupier or occupiers, if any, concerned a reasonable opportunity of showing cause why it should not be made.

(2) When any order has been made under sub-section (1) the executive authority shall cause a copy of the order to be communicated to the owner as well as to every occupier concerned ; and every such occupier shall be bound to cease to inhabit the dwelling house or portion thereof, as the case may be, within thirty days after the communication of the order to him.

(3) The owner of any dwelling house or portion of a dwelling house in respect of which an order under sub-section (1) is in force, shall not let or occupy, or permit to be let or occupied, such dwelling house or portion, or any part thereof, as a human habitation.

97. Notwithstanding anything contained in any other law or provision having the force of law, for the time being in force no person shall, without the previous permission of the Health Officer, erect any back-to-back houses intended to be used as dwelling houses and any such house the erection of which is begun after the commencement of this Act without such permission shall be deemed to be unfit for human habitation within the meaning of section 96.

Back-to-back houses not to be erected without permission.

Part III.

Abatement of Overcrowding.

98. In this Part—

Definitions.

- (1) "tenement" means a dwelling house and includes—
- (a) any part of a dwelling house which is capable of separate occupation ; and
 - (b) a students' hostel under public or recognized control,

(Chapter X—Sanitation and Buildings. Part III—Abatement of Overcrowding. Chapter XI—Lodging Houses.)

but does not include a dwelling house or part of a dwelling house occupied by the owner thereof; and

(2) “landlord” means the immediate landlord of the occupier or occupiers of a tenement.

Duties of landlord.

99. A landlord of a tenement—

(a) shall maintain it in a habitable condition; and

(b) except temporarily on occasions such as marriages and the like, shall not cause or permit the tenement to be overcrowded:

Provided that no proceedings shall be instituted against the landlord in respect of any infringement by him of the provisions of this section, unless a notice in writing that the tenement is not in a habitable condition or that it is overcrowded, has been served upon the landlord or his agent by the Health Officer, and the landlord fails within such time as may be specified in such notice to take such steps as may be reasonably open to him for putting the tenement in a habitable condition or for securing the abatement of the overcrowding therein, as the case may be, including, if necessary, the taking of legal proceedings for possession of the tenement.

Power to make rules.

100. The Government shall have power to make rules for determining—

(a) whether a tenement or any class of tenements is or is not maintained in a habitable condition within the meaning of section 99; and

(b) whether a tenement or any class of tenements is or is not overcrowded within the meaning of that section.

CHAPTER XI.

LODGING HOUSES.

Lodging houses to be registered.

101. No person shall keep a lodging house or receive a lodger therein unless he is registered as the keeper thereof under this Act:

Provided that a person who immediately before the commencement of this Act was keeping a lodging house shall, for a period of three months after such commencement, be deemed to have been registered as the keeper thereof.

Register of lodging houses.

102. Every executive authority shall keep a register in which shall be entered—

(a) the full name and the place of residence of every person registered as the keeper of a lodging house;

(b) the situation of every such lodging house;

(Chapter XI—Lodging Houses.)

- (c) the number of persons authorized to be received in the lodging house ; and
- (d) the full names and the places of residence of any persons who are to act as deputies of the keeper of the lodging house.

103. (1) An executive authority on receiving from any person an application for registration, or for the renewal of his registration, as a keeper of a lodging house, and on payment by him of such fee, if any, as may be prescribed for the purpose, shall register the applicant in respect of the lodging house named in the application or renew his registration in respect thereof and issue to him a certificate of registration or of renewal of registration :

Conditions of registration and of renewal of registration

Provided that the executive authority—

- (a) shall not register an applicant until the Health Officer has inspected the premises named in the application and has recommended such registration ; and
- (b) may refuse to register, or to renew the registration of, an applicant if he is satisfied that—
 - (i) the applicant or any person employed or proposed to be employed by the applicant at the lodging house as a deputy or otherwise is not a fit person, whether by reason of age or otherwise, to keep or to be employed at a lodging house ; or
 - (ii) the premises are not suitable for use as a lodging house or are not as regards sanitation and water-supply and in other respects including means of escape in case of fire, suitably equipped for use as such ; or
 - (iii) the use of the premises as a lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.

(2) The registration, or the renewal of the registration, of a person as a keeper of a lodging house shall expire at the end of the year for which it is granted unless, for special reasons, the executive authority considers that it should expire at an earlier date, when it shall expire at such earlier date which shall be specified in the certificate of registration or of renewal of registration.

(3) If an executive authority refuses to grant or renew registration under this section, he shall deliver to the applicant a statement in writing of the grounds on which his application is refused.

(4) If at any time, a person registered as the keeper of a lodging house applies for the removal from the register of the name of any person entered therein as a deputy of the keeper,

(Chapter XI—Lodging Houses. Chapter XII—Food Control.)

or for the insertion therein of the name of any other person, being a person approved by the executive authority, whom the keeper proposes to employ as a deputy, the executive authority shall alter the register accordingly and make any consequential alterations in the certificate of registration.

Appeal to local authority.

104. A person aggrieved by the refusal of an executive authority to grant or renew registration under section 103 may appeal to the local authority.

Rules for the upkeep and maintenance of lodging houses.

105. The Government shall have power to make rules—

- (a) for fixing the number of persons who may be received into a lodging house and for the separate accommodation of the sexes therein ;
- (b) for promoting cleanliness and ventilation in lodging houses and requiring the walls and ceilings thereof to be lime-washed or treated with some other suitable preparation, at specified intervals ;
- (c) with respect to the taking of precautions when any case of infectious disease occurs in a lodging house ; and
- (d) generally for the well-ordering of lodging houses.

Notice to be affixed outside the lodging house.

106. (1) The keeper of a lodging house shall, if so required by the executive authority, affix, and keep affixed and undefaced and legible, a notice with the words "Registered lodging house" in some conspicuous place on the outside of the house.

(2) The keeper of a lodging house and every other person having the care or taking part in the management thereof shall at all times allow the executive authority, the Health Officer or any other person authorized by the executive authority or Health Officer in this behalf, to have free access to all parts of the house.

Cancellation of registration by court.

107. When the registered keeper of a lodging house is convicted of any offence under this Chapter or under section 64 or a rule or by-law applicable to him made under this Act, the Court by which he is convicted may cancel his registration as a lodging house keeper and may order that he be disqualified for such period as the Court thinks fit for being again registered as such keeper.

CHAPTER XII.

FOOD CONTROL.

Prohibition of sale of unsound food.

108. (1) No person shall—

- (a) sell, expose or hawk about for sale, or keep, store or prepare for sale, any animal intended for human consumption which is diseased, or the flesh of any animal which has died on account of natural causes ;
- or

(Chapter XII—Food Control.)

(b) sell, expose or hawk about for sale, or keep, store, manufacture or prepare for sale, any food or drug intended for human consumption which is unfit for such purpose or is unwholesome.

(2) In any prosecution under sub-section (1), the Court shall, unless and until the contrary is proved, presume—

(a) that any animal found in the possession of a person who is in the habit of keeping animals of that class for sale for human consumption, has been kept by such person for sale, and

(b) that any food or drug found in the possession of a person who is in the habit of keeping, storing, manufacturing or preparing such food or drug for sale for human consumption, has been kept, stored, manufactured or prepared by such person for sale.

109. (1) Any person who does any of the acts mentioned in sub-section (1) of section 108 or in clauses (a) to (d) of sub-section (1) of section 5 of the Madras Prevention of Adulteration Act, 1918, through others employed by him, whether the latter be adults or children, shall be liable to punishment for such act as if he had himself done the same.

Punishment for contravening provisions of section 108, through others.

Madras
Act III
of 1918.

(2) If a child under seven years of age does any of the acts aforesaid, the employer of the child, or the parent or other person having the care and custody of the child, as the case may be, shall be liable to punishment for such act as if he had himself done the same.

110. No person shall knowingly consume the flesh of any animal which has died on account of natural causes.

Flesh of dead animal not to be consumed.

Explanation.—It shall be no defence to a prosecution under this section that the flesh was consumed as a matter of custom, or as a matter of right on account of services rendered in removing dead cattle, or on any other ground.

111. (1) No person shall bring into any local area, without the permission in writing of the Health Officer thereof, the flesh of any animal slaughtered outside the local area otherwise than in a slaughter-house maintained or licensed by the Government or by a local authority.

Importing meat into local area.

(2) Any flesh brought into the local area in contravention of sub-section (1) may be seized by the Health Officer or any officer or servant of the local authority authorized by him in that behalf, and sold or otherwise disposed of as the Health Officer may direct; and in case of sale, the sale-proceeds shall be credited to the funds of the local authority.

(3) Nothing in this section shall be deemed to apply to—

(a) cured or preserved meat, or

(Chapter XII—Food Control.)

- (b) flesh or meat carried through any local area for consumption outside the limits thereof and not stored anywhere within such limits in the course of transit, or
- (c) flesh or meat brought into the local area by any person for immediate domestic consumption and not for sale :

Provided that the local authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

Power of Health Officer to enter premises used for food trade.

112. The Health Officer may, without notice, enter any place at any time, by day or by night, where any article of food is being manufactured, prepared, exposed or stored for sale, and inspect such article and any utensil or vessel used for manufacturing, preparing or containing the same.

Powers of Health Officer to deal with carriers of disease handling food.

113. (1) The Health Officer may, at any time, examine any person engaged in selling, or in manufacturing or preparing for sale, or in any manner whatsoever handling any article of food intended for sale.

(2) If on such examination the Health Officer finds that such person is suffering from, or harbouring the germs of, any infectious disease, such person shall not take part in selling any article of food or in manufacturing, preparing or in any manner handling any article of food intended for sale, until the Health Officer certifies in writing that he is free from infection from such disease.

Investigation of diseases caused by milk or dairy produce.

114. (1) If the Health Officer has reason to believe—

(a) that any person within the local area over which he has jurisdiction is suffering from an infectious disease attributable to milk or dairy produce supplied within such area, or

(b) that the consumption of any milk or dairy produce supplied within such local area is likely to cause any person therein to suffer from an infectious disease,

the Health Officer may require the person supplying the milk or dairy produce to furnish within such time as may be fixed by the Health Officer, a complete list of all dairies (whether situated within or outside the limits of the local area) from which that person's supply of milk or dairy produce is derived or has been derived during the six weeks immediately preceding.

(2) If such supply or any part of such supply is obtained, not directly from a dairy but through some other person, the Health Officer may make a similar requisition upon such other person.

(Chapter XII—Food Control. Chapter XIII—Fairs and Festivals.)

(3) Every person on whom any requisition is made under sub-section (1) or sub-section (2) shall be bound to comply therewith.

115. (1) The Health Officer may inspect any dairy referred to in section 114 and the milch-cattle and the employees therein, and if, on such inspection, the Health Officer is of opinion that any infectious disease is caused, or is likely to be caused, by the consumption of the milk or dairy produce supplied from such dairy, he may make an order prohibiting the supply of any milk or dairy produce for human consumption from such dairy.

Inspection
of dairy by
Health
Officer.

(2) An order made under sub-section (1) shall be forthwith cancelled by the Health Officer on his being satisfied that the milk supply has been changed, or that the employees objected to by him have ceased to work at the dairy, or that the cause of infection has been removed.

(3) If an order made under sub-section (1) or cancelled under sub-section (2) relates to a dairy situated outside the limits of the local area, the Health Officer shall also inform the local authority within whose jurisdiction the dairy is situated.

(4) When an order is made under sub-section (1), the Health Officer may either—

(a) permit the milk or other produce of the dairy, after being boiled or treated in such other manner as he may direct, to be sold or used as animal food, subject to any reasonable restrictions he may impose, or

(b) cause such milk or dairy produce to be destroyed.

(5) No person shall sell or supply any milk or dairy produce in contravention of the provisions of this section.

CHAPTER XIII.

FAIRS AND FESTIVALS.

116. (1) The Government may, by notification—

(a) declare that any local area or part of a local area in which a fair or festival is to be held shall, for the purposes of this Chapter, be a notified fair or festival centre, for such period as may be specified in the notification; and

Notification
of fairs and
festivals by
Govern-
ment.

(b) define the limits of the area which shall, for the purposes aforesaid, be the site for the fair or festival.

(2) The provisions of this Chapter shall apply only to fairs and festivals in connexion with which a notification under sub-section (1) has been issued.

Chapter XIII—Fairs and Festivals.)

Levy of
pilgrim tax
on travellers
by inland
waterways.

117. (1) The Government, or the local authority with the approval of the Government, may, by notification, impose, during a period to be specified in the notification, a tax on persons leaving by inland waterways a notified fair or festival centre or any place within such distance therefrom as may be specified in the notification.

(2) Every such notification shall specify the rates at which the tax shall be levied :

Provided that the tax shall not exceed four annas in the case of passengers leaving by steam vessels, and two annas in the case of passengers leaving by other vessels including ferry boats.

(3) The Government shall have power to make rules regarding—

- (a) the collection of the tax ;
- (b) the ascertainment of the expenses incurred in collecting the tax ;
- (c) in case the tax is collected by any authority (other than the local authority concerned) or any person, the payment of the proceeds of the tax after deducting the expenses of collecting the same, to the local authority ;
- (d) in the case referred to in clause (c), the returns and the information to be furnished by the authority or person collecting the tax to the local authority concerned, and the decision of disputes between the authority or person aforesaid and such local authority ; and
- (e) the decision of disputes between two or more local authorities.

Levy of tolls
on vehicles.

118. (1) The Government, or the local authority with the approval of the Government, may, by notification, levy tolls on any vehicle (other than a motor vehicle) or any animal entering a notified fair or festival centre, for such period, at such rates, and subject to such exemptions, as may be specified in the notification.

(2) The Government shall have power to make rules regarding—

- (a) the collection of tolls ;
- (b) the composition of the tolls payable by any person ;
- (c) the seizure, detention, and disposal of any vehicle or animal in respect of which toll is not paid ;
- (d) the duty of the police to assist persons authorized to collect tolls, and the powers of the police in that behalf ; and

(Chapter XIII—Fairs and Festivals.)

- (e) the penalties to be imposed in case of evasion of tolls or of resistance to the seizure and detention of any vehicle or animal in respect of which toll is not paid.

119. (1) The person or authority in charge of any fair or festival shall, not less than sixty days before its commencement, intimate to the executive authority or Health Officer of the local authority concerned, or in case the fair or festival is to be held within the jurisdiction of more than one local authority, to the executive authority or Health Officer of each of the local authorities concerned, the date of the commencement of such fair or festival, and the period for which it will last.

Notice to be given of fair or festival.

(2) The person or authority in charge of the fair or festival shall also furnish such other particulars relating to the fair or festival as may be called for by the executive authority or Health Officer of the local authority or any of the local authorities concerned.

120. The local authority within whose jurisdiction a fair or festival is held, or if it is held within the jurisdiction of two or more local authorities, any person or committee appointed by such local authorities jointly, shall make provision for—

Sanitary arrangements, etc.

- (1) the demarcation and preparation of the site of the fair or festival ;
- (2) the clearing and draining of the site ;
- (3) the disposition of the several parts of the fair or festival, including the alignment of roads within the site ;
- (4) the supply in sufficient quantities of water fit for drinking and cooking purposes for the use of persons resorting to the fair or festival and the proper preservation of such water ;
- (5) the accommodation of pilgrims and visitors, to such extent as may be practicable ;
- (6) the lighting of the fair or festival site ;
- (7) the supply by suitable persons of wholesome food, at reasonable rates, and in sufficient quantities, to persons resorting to the fair or festival and the proper supervision and inspection of all food prepared or offered for sale or stored or in course of transit within the fair or festival site ;
- (8) the collection, removal and disposal of refuse, rubbish and sewage ;
- (9) the supply and maintenance of suitable latrines for the use of persons resorting to the fair or festival ;
- (10) the detection and segregation of cases of infectious disease and the prevention of the introduction and spread of such diseases ;

(Chapter XIII—Fairs and Festivals.)

- (11) the employment of adequate medical staff, the provision of medical relief, and the furnishing of hospital accommodation both for general and isolation purposes ; and
- (12) such other purposes as may be prescribed.

Health Officer to supervise the arrangements.

121. The arrangements mentioned in section 120 shall be executed under the supervision and control of the Health Officer concerned, or if the fair or festival is held within the jurisdiction of more than one local authority, under the supervision and control of the Health Officer of one of such local authorities designated by the person or committee referred to in section 120, or in case no Health Officer is so designated, under the supervision and control of the Health Officers concerned within their respective local areas.

Power to enter and seize unwholesome food.

122. (1) The Health Officer, or a Health or Sanitary Inspector of the local authority or of any of the local authorities concerned, or any officer of the Government or of any such local authority appointed by the Government in this behalf may—

- (a) enter and inspect any building or shop in the fair or festival site, which is a source of food-supply ;
- (b) for the purpose of inspection, have access to any source of water-supply on such site or within such distance therefrom as the Government may, by general or special order, determine ; and
- (c) seize any food prepared or offered for sale or stored or in course of transit within the fair or festival site which, he has reason to believe, is unwholesome or unfit for human consumption, and destroy the same forthwith if, in his opinion, such food is of a perishable nature or the value thereof does not exceed three rupees.

(2) (a) Any officer seizing any food under clause (c) of sub-section (1) shall, if it is not destroyed under that clause, report the seizure to such authority or person as may be prescribed in that behalf.

(b) If the authority or person aforesaid is of opinion that the food is unwholesome or unfit for human consumption, such authority or person may, by order in writing, direct the food to be destroyed ; and any expenses incurred in this behalf (including the cost, if any, of analysing the food or a sample thereof) shall be recoverable from the person from whom the food was seized, as if it were a tax due from him to the local authority or any of the local authorities concerned.

(Chapter XIII—Fairs and Festivals.)

(c) If the authority or person aforesaid is of opinion that such food is wholesome and fit for human consumption, the food shall be returned to the person from whom it was seized ; and the cost, if any, of analysing the food or a sample thereof shall be borne by the local authority or local authorities concerned.

I of 1894.

123. (1) The local authority may, in cases of emergency, with the sanction of the District Collector, depute any person to enter upon, occupy and use, without having recourse to the provisions of the Land Acquisition Act, 1894, any land or any building not being a dwelling-house in the notified fair or festival centre which in the opinion of the Health Officer, is required and is suitable for any purposes connected with the fair or festival, such as the construction of pilgrim-sheds, water-sheds, hospitals, segregation-sheds, latrines, and the like :

Occupation of building, etc., required in connexion with fair or festival

Provided that if the land or building is occupied, notice shall be given in writing to the occupant or be conspicuously affixed on such land or building, not less than twenty-four hours before it is entered upon.

(2) The owner or lessee of such land or building shall be entitled to compensation for any damage or expenses incurred, and to a reasonable rent for the period during which it had been occupied or used for any of the purposes referred to in sub-section (1). Such compensation and rent shall be fixed by the District Collector.

(3) The local authority shall, when any such land or building ceases to be occupied or used for any of the purposes aforesaid, cause it to be thoroughly disinfected and cleansed.

124. (1) The Health Officer may, by notice in writing, require the owner of, or other person having control over, any source of water-supply situated on the fair or festival site, or within such distance therefrom as the Government may, by general or special order determine, to close or disinfect such source within a specified time if, in the opinion of the Health Officer, it is likely to engender or cause the spread of disease amongst persons resorting to the fair or festival.

Control over private sources of water-supply.

(2) If the owner or person aforesaid fails or neglects to comply with any notice issued under sub-section (1) within the time specified therein, the Health Officer may himself take the necessary action ; and the whole of the expenses incurred in doing so or such part thereof as the Health Officer may determine to be reasonable, shall be recovered from such owner or person as if it were a tax due from him to the local authority or any of the local authorities concerned.

(Chapter XIII—Fairs and Festivals. Chapter XIV—
Finance.)

Licensing of houses to accommodate visitors to fair or festival.

125. (1) The owner or occupier of a house, not being a lodging house registered under Chapter XI, situated in any notified fair or festival site shall not, for purposes of gain, accommodate in the house visitors to the fair or festival, without obtaining a licence in that behalf from the executive authority or the Health Officer of the local authority or any of the local authorities concerned.

This provision shall not apply to tenancies from month to month or for a period exceeding one month.

(2) Every application for a licence under sub-section (1) shall be in writing, shall contain such information as may be required by the authority to whom it is addressed, and shall be accompanied by such fee as may be prescribed for the grant of the licence.

(3) (a) If it appears to the executive authority or the Health Officer, as the case may be, that the house is suitable for accommodating visitors to the fair or festival, he may issue a licence, in the prescribed form and subject to the prescribed conditions, for the accommodation in the house of such number of visitors as may, in his opinion, be conveniently received therein, having regard to the number of persons resident in the house, whether as members of the family or as servants of the owner or occupier.

(b) The licence shall also specify—

(i) the maximum number of persons (residents and visitors) who may be accommodated in the house at any one time; and

(ii) the date until which it shall remain in force.

(4) If the authority granting the licence is satisfied that the licensed house has, subsequent to the grant of the licence, become unfit for the accommodation of visitors, or if the licensee is convicted of any offence punishable under this Chapter, such authority may revoke the licence or, at his discretion, may suspend the licence for such period or until the fulfilment of such condition, as he may specify.

CHAPTER XIV.

FINANCE.

Manner of spending proceeds of taxes and tolls levied in respect of fairs and festivals.

126. If in respect of any fair or festival, any tax or toll is levied under section 117 or section 118 of this Act, or under section 116 of the Madras District Municipalities Act, 1920, or section 110 of the Madras Local Boards Act, 1920, the local authority shall have power to spend the proceeds thereof in connexion with the fair or festival or for the benefit generally of the local area concerned, in such manner as the Government may, by general or special order, authorize.

Madras Act V of 1920.
Madras Act XIV of 1920.

(Chapter XIV—Finance. Chapter XV—Rules, By-Laws, Penalties, etc.)

127. (1) Every municipality shall earmark not less than 30 per cent of its income from all sources other than Government grants, for expenditure on the advancement of public health in its local area, including expenditure on medical relief, and every district board or panchayat shall similarly earmark not less than 12½ per cent of its income from such sources :

Earmarking of revenue by local authorities for expenditure on public health.

Provided that the Government may, for financial or other reasons, vary the provisions of this sub-section to such extent as they may think fit in the case of any municipality or district board or any panchayat or class of panchayats.

(2) (a) The Government may, by notification, authorize any local authority or class of local authorities to incur expenditure on any public health purpose specified in the notification, notwithstanding anything contained in the Act under which such local authority or authorities have been constituted.

(b) Any expenditure incurred by a local authority, which is authorized by clause (a) shall be taken into account for the purposes of sub-section (1).

CHAPTER XV.

RULES, BY-LAWS, PENALTIES, &C.

128. (1) The Government shall, in addition to the rule-making powers conferred on them by any other provision contained in this Act, have power to make rules generally to carry out the purposes of this Act.

Power of Government to make rules.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), the Government may make rules—

- (a) with reference to all matters expressly required, or allowed, by this Act to be prescribed ; and
- (b) regulating the situations in which sanitary conveniences for the use of the public shall be constructed by a local authority, and the number of such sanitary conveniences.

129. (1) In making a rule under section 81, the Government may provide that a breach of such rule shall be punishable with imprisonment which may extend to three months or with fine or with both.

Penalty for breach of rules.

(2) In making a rule under any other provision contained in this Act, the Government may provide that a breach of such rule shall be punishable—

- (i) with fine which may extend to one hundred rupees, and in case of a continuing breach, with

(Chapter XV—Rules, By-Laws, Penalties, etc.)

fine which may extend to thirty rupees for every day during which the breach continues after conviction for the first breach ; or

(ii) with fine which may extend to twenty rupees for every day during which the breach continues after receipt of notice from the executive authority or the Health Officer to discontinue such breach.

Procedure for making and the effect of rules.

130. (1) The power to make rules under this Act shall be subject to the following conditions :—

(a) A draft of the rules shall be published in the Official Gazette.

(b) Such draft shall not be further proceeded with until six weeks after such publication or until such later date as the Government may appoint.

(2) All rules made under this Act shall be published in the Official Gazette and upon such publication shall have effect as if enacted in this Act.

By-laws by local authorities.

131. Any local authority may make by-laws, not inconsistent with this Act or the rules made thereunder or with any other law, for carrying out all or any of the purposes of this Act.

Breach of by-laws.

132. In making a by-law, the local authority may provide that a breach thereof shall be punishable—

(a) with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach, or

(b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the executive authority or the Health Officer to discontinue such breach.

Procedure for making or altering by-laws.

133. In regard to by-laws made by a local authority under sections 131 and 132, the following provisions shall apply, namely :—

(a) in case the local authority is the Corporation of Madras, sections 352, 353, 354 and 356 of the Madras City Municipal Act, 1919 ; Madras Act IV of 1919.

(b) in case the local authority is a municipality constituted under the Madras District Municipalities Act, 1920, sections 309, 310 and 311 of that Act ; and Madras Act V of 1920.

(c) in case the local authority is a local board constituted under the Madras Local Boards Act, 1920, sections 204, 205 and 205-A of that Act. Madras Act XIV of 1920.

(Chapter XV—Rules, By-Laws, Penalties, etc.)

134. (1) Whoever—

Penalties for offences against Act, etc.

- (a) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I; or
 (b) contravenes any rule or order made under any of the provisions so specified; or
 (c) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions

shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of—

- (a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II; or
 (b) contravening any rule or order made under any of the provisions so specified; or
 (c) failing to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.—The entries in the third column of Schedules I and II headed "Subject" are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

135. Every person who prevents the executive authority or the Health Officer or any person to whom the executive authority or the Health Officer has lawfully delegated his powers of entering on or into any land or building, from exercising his lawful power of entering thereon or thereinto, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for preventing entry of executive authority of Health Officer.

Miscellaneous.

136. Any decision of the Health Officer against which an appeal is not otherwise provided for in this Act shall be subject to such appeal as may be prescribed.

Appeal against decisions of Health Officer.

(Chapter XV—Rules, By-Laws, Penalties, etc.)

Method of serving notices. 137. (1) When any notice is required to be given by this Act, or by any rule, by-law, regulation or order made under it, such notice shall be given—

- (a) by giving or tendering the notice to such person ;
or
- (b) if such person is not found, by leaving such notice at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family ; or
- (c) if such person does not reside in the local area and his address elsewhere is known to the executive authority, by sending the same to him by post, registered ; or
- (d) if none of the means aforesaid be available, by affixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the notice, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

Cognizance of offences against the Act.

138. No person shall be tried for any offence against the provisions of this Act, or of any rule, or by-law made under it, unless complaint is made within three months of the commission of the offence, by the police, or the executive authority or the Health Officer, or by a person expressly authorized in this behalf by the local authority, the executive authority or the Health Officer :

Provided that nothing contained in this section shall affect the provisions of the Code of Criminal Procedure, 1898, V of 1898. in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion.

Powers of Police Officers to arrest offenders against Act, etc.

139. Any police officer who sees a person committing an offence against any of the provisions of this Act or of any rule or by-law made thereunder, may arrest such person, if his name and address are unknown to the officer and such person on demand declines to give his name and address or gives a name and address which the officer has reason to believe to be false.

Powers of executive officer and public health staff to arrest offenders against Act, etc.

140. (1) The executive officer of a local authority or any member of the public health establishment of a local authority not below the rank of Health or Sanitary Inspector, who sees a person committing any of the offences specified in sub-section (2) in the area over which the local authority

(Chapter XV—Rules, By-Laws, Penalties, etc.)

has jurisdiction, may arrest such person, if his name and address are unknown to the executive officer or member aforesaid and such person on demand declines to give his name and address or gives a name and address which such officer or member has reason to believe to be false. Any person so arrested shall be handed over to the officer in charge of the nearest police station as expeditiously as possible.

(2) The offences referred to in sub-section (1) are—

(a) offences against any of the provisions of this Act or of any rule or by-law made thereunder ; and

(b) offences falling under any of the provisions of the Acts mentioned below, if such provisions are in force in the area over which the local authority has jurisdiction—

Madras Act
IV of 1919.

(i) Chapters VII to XIII, both inclusive, of the Madras City Municipal Act, 1919, read with section 357 of that Act and Schedules VII and VIII thereto ;

Madras Act
V of 1920.

(ii) Chapters VII to XIII, both inclusive, of the Madras District Municipalities Act, 1920, read with section 313 of that Act and Schedules VII and VIII thereto ;

Madras Act
XIV of 1920.

(iii) Chapters VIII to XI, both inclusive, of the Madras Local Boards Act, 1920, read with section 207 of that Act and Schedules VIII and IX thereto ;

Madras Act
III of 1888.

(iv) sections 53 and 73 of the Madras City Police Act, 1888 ;

Madras Act
III of 1889.

(v) clauses (9) and (11) of section 3 and sections 4 and 10 of the Towns Nuisances Act, 1889 ; and

Madras Act
III of 1918.

(vi) section 5 of the Madras Prevention of Adulteration Act, 1918.

141. No person arrested under section 139 or section 140 shall be detained in custody—

(a) after his true name and address have been ascertained, or

(b) 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 Court having jurisdiction to try the case.

Persons
arrested
not to be
detained un-
necessarily.

(Chapter XV—Rules, By-Laws, Penalties, etc.,

Schedule I—Ordinary Penalties.)

Bar of suits and prosecutions in certain cases.

142. (1) No suit, prosecution or other proceeding shall lie, against any local authority or any executive authority of a local authority, or against the Government or any officer or servant of a local authority or of the Government, or against any person appointed under section 12 of this Act, for any act done or purporting to be done under this Act without the previous sanction of the Government.

(2) No local authority or executive authority of a local authority, no officer or servant of any local authority or of the Government and no person appointed under section 12 of this Act, shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Punishment for malicious abuse of powers.

143. Any executive authority of a local authority or any officer or servant of a local authority or of the Government, or any person appointed under section 12 of this Act, who maliciously abuses any powers conferred on him by or under this Act, shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Explanation.—No prosecution shall be instituted under this section without the previous sanction of the Government.

Act to override other enactments.

144. If any provision relating to public health contained in any other enactment in force in the Province of Madras is repugnant to any provision contained in this Act, the latter provision shall prevail and the former provision shall, to the extent of the repugnancy, be void.

Power to remove difficulties.

145. If any difficulty arises in giving effect to the provisions of this Act, the Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE I.

Ordinary Penalties.

[See section 134 (1).]

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
24	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in a notice requiring to keep any well, etc., in good repair, to cleanse it, or protect, etc.	Fifty rupees.
		Owner of new dwelling house occupying or permitting its occupation without a supply of wholesome water.	Fifty rupees.

*(Schedule I—Ordinary Penalties.)**Ordinary Penalties—cont.*

Section, (1)	Sub- section or clause, (2)	Subject, (3)	Fine which may be imposed. (4)
28	(1)	Failure to comply with notice to provide efficient drainage.	Fifty rupees.
29	..	Failure to comply with notice requiring to connect a house drain with an outside drain.	Fifty rupees.
30	..	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land.	One hundred rupees.
31	..	Failure to comply with notice for paving or raising the level of any court, yard, etc.	Fifty rupees.
32	(1)	Unlawful construction of cess-pool or construction of cess-pool on unapproved site.	Fifty rupees.
	(2)	Failure to comply with notice requiring removal or closure of cess-pool.	Fifty rupees.
33	..	Occupying or permitting occupation of new building without drain.	One hundred rupees.
34	..	Letting out sullage or sewage into a street, etc.	Fifty rupees.
35	..	Discharging injurious refuse, etc., into a drain.	One hundred rupees.
36	..	Polluting water-course	One hundred rupees.
38	..	Constructing or reconstructing a building intended for human habitation without a sanitary convenience.	Fifty rupees.
39	..	Failure to comply with notice regarding provision of sanitary conveniences or latrines.	Fifty rupees.
40	(1)	Failure to construct and maintain latrines in the prescribed manner.	Fifty rupees.
	(2)	Failure to comply with notice regarding removal or improvement of latrines.	Fifty rupees.
44	(3)	Causing injury to latrines	Fifty rupees.
	..	Failure to comply with notice to abate nuisance.	Fifty rupees.
46	..	Failure to comply with Magistrate's order prohibiting the use of a house or building.	One hundred rupees.
51	(1)	Depositing filth, rubbish, etc., in streets.	Twenty-five rupees.
	(2)	Easing or permitting a member of the family to ease in a street, etc.	Twenty-five rupees.
	(3)	Failure to cover excreta with earth ..	Five rupees.
56	..	Failure to give information regarding existence of certain infectious diseases.	Five rupees.
57	(2)	Failure to comply with notice prohibiting the use of unwholesome water.	One hundred rupees.
59	..	Exposing other persons to infection ..	Twenty-five rupees.
60	(a)	Infected persons carrying on trade in articles of food.	Fifty rupees.
	(b)	Infected persons engaging in other occupations without permit.	Fifty rupees.

(Schedule I—Ordinary Penalties.)

Ordinary Penalties—cont.

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
64	..	Failure to give information of notified diseases.	Ten rupees.
67	..	Failure to close lodging houses, etc. . .	One hundred rupees.
68	..	Sending infected clothes to a laundry or depositing infected articles in a receptacle for refuse matter.	Fifty rupees.
69	(1), (2), (3) and (5).	Using or permitting use of public conveyance by an infected person.	Fifty rupees.
70	..	Letting or sub-letting of infected building without a permit.	Fifty rupees.
71	..	Exposing other persons to infection . .	Fifty rupees.
72	(1)	Failure to comply with notice forbidding work in infected premises.	Fifty rupees.
73	..	Use of books from public libraries by infected persons, etc.	Fifty rupees.
74	(1), (2), (4) and (5).	Delay in disposing of dead body of an infected person or allowing others unnecessarily to come into contact with it, etc., etc.	Fifty rupees.
75	..	Failure to comply with order prohibiting assemblages of 50 or more persons.	One hundred rupees.
77	(1)	Failure to take steps for the destruction of rats, mice, etc.	Twenty rupees.
	(2)	Failure to comply with the notice for the destruction of rats, mice, etc. . .	Fifty rupees.
79	..	Failure to give instructions to the person having venereal disease and failure to furnish the required information.	Twenty rupees.
84	(1)	Failure to comply with notice requiring steps to be taken against breeding of mosquitoes.	Fifty rupees.
86	..	Permitting the deterioration of works relating to prevention of the breeding of mosquitoes.	Two hundred rupees.
87	(1)	Injuring or destroying anti-mosquito works.	Five hundred rupees.
92	(a)	Construction of factories, workshops, etc., in residential areas.	One thousand rupees.
	(b)	Failure of factories, workshops, etc., to comply with restrictions imposed.	Five hundred rupees.
94	..	Illegal erection of building on insanitary ground.	Two hundred rupees.
96	(2) and (3).	Failure to cease to inhabit a dwelling house declared unfit for human habitation or permitting it to be let or occupied as a dwelling house.	Two hundred rupees.
97	..	Constructing back-to-back houses without permission.	One hundred rupees.
99	(a)	Failure to maintain a tenement in a habitable condition.	Fifty rupees.
	(b)	Causing or permitting a tenement to be overcrowded.	Fifty rupees.
101	..	Keeping a lodging house or receiving a lodger without registration.	One hundred rupees.

*(Schedule I—Ordinary Penalties.
Schedule II—Penalties for Continuing Breaches.)*

Ordinary Penalties—cont.

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
106	(1)	Failure to affix notice	Ten rupees.
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house.	One hundred rupees.
108	(1)	Selling, etc., unsound meat or food . .	One hundred rupees.
109	..	Selling, etc., unsound meat or food through others.	One hundred rupees.
110	..	Consuming the flesh of any animal which has died of natural causes.	One hundred rupees.
111	(1)	Unlawfully importing meat from outside the local area.	One hundred rupees.
113	(2)	Infected person carrying on trade, etc., in articles of food.	One hundred rupees.
114	..	Failure to furnish information regarding the sources of supply of milk or dairy produce.	Fifty rupees.
115	(5)	Failure to comply with the order prohibiting the supply of milk or dairy produce.	Two hundred rupees.
119	..	Failure to inform the proper authority about the date and other particulars regarding fair or festival.	Fifty rupees.
124	..	Failure to comply with notice to close or disinfect source of water-supply.	One hundred rupees.
125	(1) and (3)	Accommodating visitors without licence, or infringing conditions of licence.	Fifty rupees.

SCHEDULE II.

Penalties for Continuing Breaches.

[See section 134 (2).]

24	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in the notice requiring to keep any well, etc., in good repair, to cleanse it or protect, etc.	Ten rupees.
26	..	Continuing to occupy a dwelling house or to permit its occupation without a supply of wholesome water.	Ten rupees.
28	(1)	Failure to comply with notice to provide efficient drainage.	Ten rupees.
29	..	Failure to comply with notice requiring to connect a house drain with an outside drain.	Ten rupees.
30	..	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land.	Twenty rupees.
31	..	Failure to comply with notice for paving or raising the level of any court, yard, etc.	Ten rupees.
32	(2)	Failure to comply with notice requiring removal or closure of cesspool.	Ten rupees.
34	..	Letting out sullage or sewage into a street, etc.	Ten rupees.
35	..	Discharging injurious refuse, etc., into a drain.	Twenty rupees.

*(Schedule II—Penalties for Continuing Breaches.)**Penalties for Continuing Breaches—cont.*

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
36	..	Polluting water-course	Ten rupees.
38	..	Constructing or reconstructing a building intended for human habitation without a sanitary convenience.	Ten rupees.
39	..	Failure to comply with notice regarding provision of sanitary conveniences or latrines.	Ten rupees.
40	(2)	Failure to comply with notice requiring removal or improvement of latrines.	Ten rupees.
44	..	Failure to comply with notice to abate nuisance.	Ten rupees.
46	..	Failure to comply with Magistrate's order prohibiting the use of a house or building.	Twenty rupees.
57	(2)	Failure to comply with notice prohibiting the use of unwholesome water.	Twenty rupees.
59	..	Exposing other persons to infection ..	Five rupees.
60	(a)	Infected persons carrying on trade in articles of food.	Ten rupees.
	(b)	Infected persons engaging in other occupations without permit.	Ten rupees.
67	..	Failure to close lodging houses, etc. ..	Twenty rupees.
71	..	Exposing other persons to infection ..	Ten rupees.
72	(1)	Failure to comply with notice forbidding work in infected premises.	Ten rupees.
77	(1)	Failure to take steps for the destruction of rats, mice, etc.	Five rupees.
	(2)	Failure to comply with notice for the destruction of rats, mice, etc.	Five rupees.
84	(1)	Failure to comply with notice requiring steps to be taken against the breeding of mosquitoes.	Ten rupees.
92	(a)	Construction of factories, workshops, etc., in residential areas.	Two hundred rupees.
	(b)	Failure of factories, workshops, etc., to comply with restrictions imposed.	One hundred rupees.
96	(2) and (3).	Failure to cease to inhabit a dwelling house declared unfit for human habitation; or permitting it to be let or occupied as a dwelling house.	Fifty rupees.
97	..	Constructing back-to-back houses without permission.	Twenty-five rupees.
99	(a)	Failure to maintain a tenement in a habitable condition.	Twenty rupees.
	(b)	Causing or permitting a tenement to be overcrowded.	Twenty rupees.
101	..	Keeping a lodging house or receiving a lodger without registration.	Fifty rupees.
106	(1)	Failure to affix notice	Five rupees.
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house.	Fifty rupees.
108	(1)	Selling, etc., unsound meat or food ..	Twenty rupees.
109	..	Selling, etc., unsound meat or food through others.	Twenty rupees.

(Schedule II—Penalties for Continuing Breaches.)

Penalties for continuing breaches—cont.

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
113	(2)	Infected person carrying on trade, etc., in articles of food.	Twenty rupees.
115	(5)	Failure to comply with the order prohibiting the supply of milk or dairy produce.	Fifty rupees.
124	..	Failure to comply with notice to close or disinfect source of water-supply.	Twenty-five rupees.
125	(1) and (3).	Accommodating visitors without licence or infringing conditions of licence.	Twenty rupees.

MADRAS ACT NO. IV OF 1939.¹[THE MADRAS PREVENTION OF ADULTERATION (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor-General on the 13th March 1939, first published in the Fort St. George Gazette on the 21st March 1939.]

An Act further to amend the Madras Prevention of Adulteration Act, 1918, for a certain purpose.

Madras
Act III
of 1918.

WHEREAS it is expedient further to amend the Madras Prevention of Adulteration Act, 1918, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Prevention of Adul- Short title.
teration (Amendment) Act, 1939.

Madras
Act III
of 1918.

2. For the proviso to section 19 of the Madras Prevention Amendment
of Adulteration Act, 1918, the following proviso shall be sub- of section 19,
stituted, namely :— Madras Act
III of 1918.

[Vide p. 20, Vol. III.]

¹ For Statement of Objects and Reasons, see Fort St. George Gazette, dated 10th January 1939—Part IV, page 2.

THE MADRAS ELECTRICITY DUTY ACT, 1939.

TABLE OF CONTENTS.

SECTIONS.

- 1 Short title, extent and commencement.
- 2 Definitions.
- 3 Levy of a duty on certain sales of electrical energy.
- 4 Obligation of licensees to keep books of account and to submit returns.
- 5 Inspecting Officers.
- 6 Recovery of duty.
- 7 Licensee to reimburse himself from consumer in certain cases.
- 8 Penalties.
- 9 Power to make rules.

MADRAS ACT No. V OF 1939.¹

[THE MADRAS ELECTRICITY DUTY ACT, 1939.]

[Received the assent of the Governor on the 20th March 1939, first published in the Fort St. George Gazette on the 21st March 1939.]

An Act for the levy of a duty on certain sales of electrical energy effected by licensees in the Province of Madras.

WHEREAS it is expedient to levy a duty on certain sales of electrical energy effected by licensees in the Province of Madras ; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Electricity Short title, extent and commencement. Duty Act, 1939.

(2) It extends to the whole of the Province of Madras.

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

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

(a) 'energy' means electrical energy ;

(b) 'licensee' means any person including a company or a local authority licensed under Part II of the Indian Electricity Act, 1910, to supply energy, or any person including a company or a local authority who has obtained the sanction of the Provincial Government under section 28 of that Act to supply energy ; and

(c) 'prescribed' means prescribed by rules made under this Act.

3. (1) Save as otherwise provided in sub-section (2), every licensee in the Province of Madras shall pay every month to the Provincial Government in the prescribed manner, a duty calculated at the rate of six pies per unit of energy, on and in respect of all sales of energy effected by the licensee during the previous month, at a price of more than two annas per unit. Levy of a duty on certain sales of electrical energy.

(2) A licensee shall be exempt from duty under sub-section (1) in any month if the total sales of energy effected by him in the previous month, at whatever price, did not exceed 16,666 units :

Provided that if at the end of any financial year, it is found that the total sales of energy effected by the licensee in such year, at whatever price, were not less than 200,000 units, the licensee shall pay the duty in respect of any month or months comprised in such year in which the sales of energy effected by him did not exceed 16,666 units.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 7th February 1939—Part IV, page 40.

² Came into force on the 1st April 1939.

(3) Where a licensee holds more than one licence, duty shall be calculated and levied under this section separately in respect of each licence.

Obligation of licensees to keep books of account and to submit returns.

4. Every licensee shall—

- (a) keep books of account in the prescribed form ; and
- (b) submit returns showing the units of energy supplied and the amount of the duty payable in respect thereof, to such officer, in such form, and at such times as may be prescribed.

Inspecting Officers.

5. (1) The Provincial Government may, by notification in the Official Gazette, appoint Inspecting Officers to inspect the books of account required to be kept by licensees under clause (a) of section 4.

(2) Officers so appointed shall perform such duties and exercise such powers as may be prescribed, for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

(3) Every such officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Recovery of duty.

6. Any duty due under this Act which remains unpaid, shall be recoverable as an arrear of land revenue, or by deduction from amounts payable by the Provincial Government to the licensee.

Licensee to reimburse himself from consumer in certain cases.

7. (1) Any licensee may, with the previous sanction of the Provincial Government and subject to such conditions as they may impose, recover from any person or class of persons to whom energy is sold at a price of more than two annas per unit, the duty which falls to be paid by the licensee in respect of the energy so sold or any part of it, as may be determined by the Provincial Government.

Explanation.—The duty recoverable from any person under this sub-section shall not be deemed to be part of the price charged for the energy by the licensee.

(2) The licensee may, for the purpose of sub-section (1), exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for the recovery of any charge or sum due in respect of energy supplied by him. X of 1910.

Penalties.

8. If any licensee—

- (a) fails to keep books of account or to submit returns as required by section 4, or

(b) intentionally obstructs an Inspecting Officer appointed under section 5 in the performance of his duties or the exercise of his powers under this Act and the rules made thereunder,

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

9. (1) The Provincial Government may make rules to carry out the purposes of this Act. Power to make rules.

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

- (a) the time and manner of payment of duty under section 3 ;
- (b) the form of the books of account required to be kept under clause (a) of section 4 ;
- (c) the times at which, the forms in which, and the officers to whom, the returns required by clause (b) of section 4 should be submitted ;
- (d) the duties and powers of Inspecting Officers appointed under section 5 ; and
- (e) any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the Provincial Government may provide that a breach thereof shall be punishable with fine not exceeding fifty rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

**THE MADRAS SALES OF MOTOR SPIRIT TAXATION
ACT, 1939.**

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- 1 Short title, extent and commencement.
- 2 Definitions.
- 3 Payment of tax.
- 4 Registration of importers and dealers.
- 5 Obligation of retail dealers to keep books of account and submit returns
- 6 Receipt for payment of tax to be furnished along with return.
- 7 Determination of tax by District Collector in certain cases and recovery thereof
- 8 Obligation of importers and wholesale dealers to keep books of account and submit returns
- 9 Powers of entry and inspection
- 10 Penalties
- 11 Motor spirit liable to confiscation in certain cases
- 12 Confiscation how ordered
- 13 Issue of warrants for arrest.
- 14 Power of entry and search without warrant.
- 15 Procedure for arrest without warrant
- 16 Offences to be reported, etc
- 17 Power of investigation.
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- 21 Cognizance of offences.
- 22 Bar of certain proceedings
- 23 Limitation for certain suits and prosecutions
- 24 Appeal.
- 25 Revision.
- 26 Power to make rules.
- 27 Publication of rules and notifications.
- 28 Power to remove difficulties.

MADRAS ACT No. VI OF 1939.¹

[THE MADRAS SALES OF MOTOR SPIRIT TAXATION ACT, 1939.]

[Received the assent of the Governor on the 20th March 1939,
first published in the Fort St. George Gazette on the 21st
March 1939.]

An Act to provide for the levy of a tax on retail sales
of motor spirit in the Province of Madras.

WHEREAS it is expedient to provide for the levy of a tax on
retail sales of motor spirit in the Province of Madras ; It is
hereby enacted as follows :—

1. (1) This Act may be called the Madras Sales of Motor Spirit Taxation Act, 1939. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of the Province of Madras.
- (3) This section shall come into force at once, and the rest of this Act shall come into force on such ² date as the Provincial Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless there is anything repugnant in the subject or context— Definitions.
 - (a) “ Government treasury ” means a treasury or sub-treasury of the Provincial Government and includes any office, branch or agency of the Reserve Bank of India, transacting treasury business for the Provincial Government ;
 - (b) “ importer ” means any person who imports motor spirit into British India ;
 - (c) “ motor spirit ” means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils, but does not include kerosene, furnace oil, coal or charcoal ;
 - (d) “ petrol ” means dangerous petroleum as defined in the Petroleum Act, 1934 ;
 - (e) “ prescribed ” means prescribed by rules made under this Act ;
 - (f) “ retail dealer ” means any person who sells or keeps for sale motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased ;
 - (g) “ retail sale ” means a sale of motor spirit by a retail dealer for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased, and the expression “ sell in retail ” shall be construed accordingly ; and

XXX of
1934.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 7th February 1939—Part IV, pages 34–35.

² Came into force on the 1st April 1939.

(h) “wholesale dealer” means any person who sells motor spirit, or keeps motor spirit for sale, to dealers in such spirit, for the purpose of trade.

Explanation.—A sale of motor spirit by a co-operative society, or a club, a firm or any association to one of its members for consumption is a retail sale within the meaning of clause (g).

Payment of
tax.

3. (1) Subject to the provisions of this Act, there shall be levied on all retail sales of motor spirit effected after the commencement of this Act, a tax

in the case of petrol,—at the rate of one anna and six pies per gallon, and

in the case of any motor spirit other than petrol,—at the rate of six pies per gallon ;

and such tax shall be payable by the person effecting the sale :

Provided that the Provincial Government may from time to time by notification fix any other rate at which the tax shall be payable :

Provided further that no such notification shall come into force until approved by a resolution of the Legislative Assembly.

(2) Where any retail dealers obtain their supplies of motor spirit from an importer or a wholesale dealer, it shall be open to the Provincial Government, by agreement with the importer or wholesale dealer, to levy from him in advance the tax which may be payable by the retail dealers under subsection (1) on the sale by them of the motor spirit and the provisions of this Act relating to the assessment and recovery of tax shall, subject to such conditions as may be agreed upon, apply to the importer or wholesale dealer accordingly.

(3) No tax shall be levied under this Act on the sale of any motor spirit in respect of which such tax has already been paid.

Registration
of importers
and dealers.

4. (1) No person shall, after the commencement of this Act, carry on business in motor spirit as an importer or as a wholesale or retail dealer at any place in the Province unless he has been registered as such under this Act :

Provided that persons carrying on business at the commencement of this Act shall be allowed two months from such commencement to get themselves registered under this Act.

Explanation.—Where a person has more than one place of business, whether in the same town or village or in different towns and villages, he shall get himself registered separately in respect of each such place of business.

(2) (a) No importer or wholesale dealer shall, unless also registered as a retail dealer under this Act, sell motor spirit for consumption or sale in the Province to any person other than an importer or a wholesale dealer or a retail dealer, registered as such under this Act.

(b) No retail dealer shall use or transfer for consumption any motor spirit stocked by him without its being included in his accounts and in the next return of retail sales submitted by him under section 5 (b).

(3) Application for registration as an importer or a wholesale dealer or a retail dealer under this Act shall be made in such form and to such authority as may be prescribed.

(4) Registration may be made subject to such conditions, if any, as may be prescribed including in the case of an applicant for registration as a retail dealer, the making of such deposit or the furnishing of such security as the registering authority may consider necessary to ensure the due payment of the tax which may from time to time be payable by him.

(5) No person including a company or firm registered as an importer, a wholesale dealer or a retail dealer, shall carry on the business of public transport requiring the use of motor spirit.

(6) Any registration under sub-section (1) may be suspended or cancelled by such authority, for such reasons, and in such manner, as may be prescribed.

5. Every retail dealer in motor spirit shall in respect of each place where he carries on business—
- (a) keep books of account in the prescribed form ; and
- (b) submit every month to the District Collector and to such other officers as may be prescribed, a return in the prescribed form and before the prescribed date, showing—
- (i) the quantity of motor spirit received by him during the preceding month ;
- (ii) the quantity sold by him during such month ; and
- (iii) such other particulars as may be prescribed.

Obligation of retail dealers to keep books of account and submit returns.

6. Along with the return referred to in clause (b) of section 5, the retail dealer shall furnish a receipt from a Government treasury for the amount of the tax due in respect of the motor spirit sold by him in retail during the preceding month, according to the return.

Receipt for payment of tax to be furnished along with return.

Determi-
nation of tax
by District
Collector in
certain cases
and recovery
thereof.

7. (1) If no return is submitted by a retail dealer under clause (b) of section 5 in respect of any month before the date prescribed in that behalf, or if the return is submitted without a receipt for the full amount of the tax due as required by section 6, or if the return submitted appears to the District Collector to be incorrect or incomplete, the District Collector shall, after making such inquiry as he considers necessary, determine the amount of the tax due from such retail dealer in respect of such month and the amount so determined less the sum, if any, already paid by him shall be paid by the retail dealer into a Government treasury within fourteen days after demand is made therefor :

Provided that before taking action under this sub-section, the retail dealer shall be given a reasonable opportunity of proving the correctness and completeness of his return.

(2) In default of payment within the period aforesaid, the amount of tax due shall be recovered from the person from whom the tax is due as if it were an arrear of land revenue.

Obligation
of importers
and whole-
sale dealers
to keep
books of
account
and submit
returns.

8 Every importer or wholesale dealer, shall—

(a) keep books of accounts in the prescribed form ;
and

(b) submit every month to the District Collector and to such other officers as may be prescribed, a return in the prescribed form and before the prescribed date, showing—

(i) the quantity of motor spirit received by him in the preceding month,

(ii) the quantities of motor spirit supplied by him during such month to other importers, wholesale dealers or retail dealers, specifying the name and address of each importer, wholesale dealer or retail dealer, the quantities supplied to him, and the dates on which the supplies were made, and

(iii) such other particulars as may be prescribed.

Powers of
entry and
inspection.

9. (1) All accounts and vouchers relating to stocks, purchases, sales and deliveries of motor spirit kept by importers, wholesale dealers and retail dealers and the stocks of motor spirit with them shall be open to inspection by such officers as the Provincial Government may authorize in that behalf.

(2) Any such officer shall have power to enter and search any building, vessel, vehicle or place where any importer, wholesale dealer or retail dealer carries on business or keeps any stock of motor spirit.

10. Any person who—

Penalties.

- (a) carries on business in motor spirit as an importer, a wholesale dealer or a retail dealer at any place without getting himself registered as required by subsection (1) of section 4 or when his registration in respect of such place is not in force, or
- (b) fails to keep books of account as required by clause (a) of section 5 or of section 8, or
- (c) fails to submit any return as required by clause (b) of section 5 or of section 8 on or before the prescribed date, or submits an incorrect or incomplete return, or fails to submit a receipt for the full amount of the tax due as required by section 6, or
- (d) fails to pay the tax due from him within the time allowed, or
- (e) fraudulently evades the payment of any tax due under this Act, or
- (f) acts in contravention of any of the provisions of this Act,

shall on conviction by a Presidency Magistrate or a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees and where the breach is a continuing one, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues.

11. The motor spirit in respect of which an offence against this Act is committed and any receptacle in which such spirit is contained shall be liable to confiscation.

Motor spirit liable to confiscation in certain cases.

12. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 11, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation.

Confiscation how ordered.

(2) When an offence against 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 prescribed officer who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizure of the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce in support of their claims.

Issue of warrants for arrest.

13. (1) Any officer of the Provincial Government specially empowered by them in this behalf may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence against this Act.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a police officer, or if the officer issuing the warrant deems fit, by any other person. V of 1898.

Power of entry and search without warrant.

14. Any officer of the Provincial Government specially empowered by them in this behalf may—

(a) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit liable to confiscation under this Act is kept or concealed ;

(b) seize any motor spirit and any receptacle which he has reason to believe to be liable to confiscation under this Act ; and

(c) detain, search and arrest any person whom he has reason to believe to be guilty of any offence against this Act.

Procedure for arrest without warrant.

15. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under section 14. V of 1898.

Offences to be reported, etc.

16. Every officer employed by the Provincial Government or by any local body shall be bound to give immediate information at the nearest police station or, if so required by any general or special order issued by the Provincial Government, to the nearest Excise officer of rank not below that of Sub-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.

Power of investigation.

17. (1) Every officer of the Excise, Police or Land Revenue Departments not below such rank as may be prescribed, shall, within the area for which he is appointed, have power to investigate all offences against this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence : V of 1898.

Provided that if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or

that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the District Collector.

18. (1) All offences against this Act shall be bailable. Offences to be bailable.

V of 1898.

(2) Any officer empowered under section 17 shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence against this Act.

19. When anything has been seized by an officer exercising powers under section 17, such officer, after such inquiry as he considers necessary— Procedure on seizure.

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken ;

(b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to the prescribed authority ; and

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to the prescribed authority accordingly.

20. (1) The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence— Power to compound offences.

(a) where the offence consists of a sale of motor spirit in contravention of this Act or of the evasion of any tax payable under this Act, in addition to the tax payable by him under section 3, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater ; and

(b) in other cases, a sum of money not exceeding five hundred rupees.

(2) On the payment of such sum of money and the tax, if any, payable under section 3, to the prescribed authority, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

Cognizance
of offences.

21. (1) No Magistrate shall take cognizance of any offence against this Act—

(i) except upon the complaint or report of the District Collector or other prescribed authority, or

(ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of the Provincial Government, no Magistrate shall take cognizance of any offence against this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed :

Provided that nothing contained in this sub-section shall apply to any case governed by section 23.

Bar of
certain
proceedings.

22. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Provincial Government, for any act done or purporting to be done under this Act, without the previous sanction of the Provincial Government.

(2) No officer or servant of the Provincial Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitation
for certain
suits and
prosecu-
tions.

23. No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Appeal.

24. (1) Any person aggrieved by any order passed under this Act, not being an order passed by any Court or Magistrate, may appeal—

(a) in case such order is passed by a District Collector, to the Board of Revenue, and

(b) in any other case, to the District Collector.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority thinks fit.

(3) Every order passed in appeal under this section shall, subject to the powers of revision conferred by section 25, be final.

Revision.

25. The Board of Revenue may, at any time, call for and examine the record of any order passed by, or any proceedings recorded by, any officer or person under this Act, for the

purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

26. (1) The Provincial Government may make rules to carry out the purposes of this Act. ^{Power to make rules.}

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

(a) all matters expressly required or allowed by this Act to be prescribed ;

(b) the regulation of the sale of motor spirit for the purpose of enforcing the provisions of this Act ;

(c) the duties and powers of inspecting and other officers appointed or authorized to exercise any powers under this Act, and the procedure to be followed by such officers ;

(d) the form in which, and the time within which, appeals under section 24 may be preferred ; and

(e) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than four weeks.

27. All rules made and notifications issued under this Act shall be published in the Official Gazette and upon such publication, shall have effect as if enacted in this Act. ^{Publication of rules and notifications.}

28. If any difficulty arises in giving effect to the provisions of this Act or the rules made thereunder, the Provincial Government may, as occasion may arise, by order, do anything which appears to them necessary for the purpose of removing the difficulty. ^{Power to remove difficulties.}

MADRAS ACT No. VII OF 1939.¹

[THE CANALS AND PUBLIC FERRIES (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor on the 20th March 1939,
first published in the Fort St. George Gazette on the 21st
March 1939.]

An Act further to amend the Canals and Public
Ferries Act, 1890, for certain purposes.

WHEREAS it is expedient further to amend the Canals and
Public Ferries Act, 1890, for the purposes hereinafter appear- Madras Act
II of 1890.
ing : It is hereby enacted as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Canals and Public
Ferries (Amendment) Act, 1939.

(2) It shall come into force on the 1st day of April
1939.

Substitution
of new
section for
section 10,
Madras Act
II of 1890.

2. For section 10 of the Canals and Public Ferries Act, Madras Act
1890 (hereinafter referred to as the said Act), the following Madras Act
II of 1890.
section shall be substituted, namely :—

[Vide pp. 229-230, Vol. II.]

Amendment
of section
11, Madras
Act II of
1890.

3. In section 11 of the said Act, the words “ or public
ferry ” shall be omitted.

Amendment
of section 14,
Madras Act
II of 1890.

4. To section 14 of the said Act, the following proviso
shall be added, namely :—

[Vide p. 231, Vol. II.]

Provision for
the conti-
nuance of
existing
tolls.

5. All tolls levied immediately before the commencement
of this Act at any public ferry the management of which
has been assigned to a local board or municipal council, shall
be deemed to have been levied, with effect from such commence-
ment, by the local board or municipal council concerned under
sub-section (4) of section 10 of the said Act as amended by
this Act.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 31st January 1939—Part IV, pages 20-21.

THE MADRAS TOBACCO (TAXATION OF SALES
AND LICENSING) ACT, 1939.

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MADRAS ACT No. VIII OF 1939.¹

[THE MADRAS TOBACCO (TAXATION OF SALES AND LICENSING) ACT, 1939.]

[Received the assent of the Governor on the 4th June 1939, first published in the Fort St. George Gazette on the 13th June 1939.]

An Act for the levy of a tax on the sale of tobacco and the licensing of trade therein in the Province of Madras.

Preamble.

WHEREAS it is expedient to provide for the levy of a tax on the sale of tobacco and the licensing of trade therein in the Province of Madras ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once, and the Provincial Government may from time to time by notification in the Official Gazette apply ² all or any of the remaining provisions of this Act to the whole or any portion of the Province of Madras from such ² date as may be specified in the notification, and may cancel or modify any such notification.

Definitions.

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

(1) “ broker ” or “ commission agent ” means a person who in the ordinary course of his business negotiates and makes contracts for the sale or purchase of tobacco for others ;

(2) “ Collector ” means the Collector of the district and includes any person appointed by the Provincial Government under section 15 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act ;

(3) “ Commissioner ” means a member of the Board of Revenue or other officer appointed by the Provincial Government to exercise the powers and perform the duties of the Commissioner under this Act ;

(4) “ grower ” means a person who grows tobacco in the Province of Madras, by his own labour or by that of the members of his household or of his servants, or by tenants, but does not include a firm or association registered under the Indian Companies Act, 1913, which grows tobacco, or an association of growers registered or deemed to be registered under the Madras Co-operative Societies Act, 1932 ;

VII of 1913.
Madras Act VI of 1932.

(5) “ leaf ” includes the stalks and stem of the tobacco plant ;

¹ For Statement of Objects and Reasons, see Fort St. George Gazette dated 21st March 1939—Part IV, page 172.

² Came into force on the 1st August 1939.

- (6) "licensee" means any person to whom a licence is granted under this Act ;
- (7) "Magistrate" means a Presidency Magistrate, a Magistrate of the first or second class, or a Magistrate of the third class specially authorized in this behalf by the District Magistrate ;
- (8) "manufactured tobacco" means cigars, cheroots, cigarettes, cigarette tobacco, pipe tobacco, bidis and snuff, but does not include any preparation or mixture of tobacco intended for a further process of manufacture ;
- (9) "manufacturer" means a person who manufactures by machinery or manual labour "manufactured tobacco" or any preparation or mixture of tobacco intended for a further process of manufacture ;
- (10) "place" includes a house, building, shed, bunk, shop, tent, vehicle, and vessel ;
- (11) "prescribed" means prescribed by rules made under this Act ;
- (12) "retail dealer" means a person licensed to sell tobacco in retail under the provisions of this Act ;
- (13) "retail sale" means a sale of tobacco for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased and the expression "sell in retail" shall be construed accordingly :

Provided that any sale of tobacco by a retail dealer shall be presumed to be a retail sale unless the retail dealer concerned proves that the sale was not a retail sale.

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

Explanation.—A sale by a co-operative society or a club, a firm or any association to its members is a sale within the meaning of this clause.

- (15) "tobacco" includes manufactured tobacco, cured and uncured tobacco, any preparation or mixture of tobacco, and the leaf of the tobacco plant ;
- (16) "Tobacco Officer" means any person appointed under section 16 ;
- (17) "tobacco revenue" means revenue derived or derivable from any tax, fee, fine or confiscation levied, imposed or ordered, and all sums accruing to the Provincial Government, under the provisions of this Act ;
- (18) "turnover" means the aggregate amount for which tobacco is sold, whether for cash or for deferred payment or other valuable consideration ;

- (19) "wholesale dealer" means a person who buys or sells tobacco for the purpose of trade or manufacture ;
 (20) "wholesale sale" means a sale of tobacco to traders in, or manufacturers of, that commodity, for the purpose of trade or manufacture, and the expression "sell wholesale" shall be construed accordingly ; and
 (21) "year" means the financial year.

Prohibition of sale of tobacco without licence.

3. (1) Save as provided in this Act, no person shall sell or expose for sale any manufactured tobacco in retail or sell tobacco in any form wholesale or otherwise carry on business as a wholesale dealer, manufacturer, broker or commission agent except under the authority, and in accordance with the terms and conditions, of a licence granted by the Collector under this Act :

Provided that a grower may, without licence or restriction, sell as leaf any tobacco grown by him, or grown and cured by him for the purpose of marketing it as leaf.

Explanation I.—The supply of tobacco by a club to its members or by a hotel to its guests or customers on payment of any price, fee or subscription, is a sale of tobacco within the meaning of this sub-section.

Explanation II.—The sale by a manufacturer of tobacco manufactured by him, whether by wholesale sale or by retail sale, is a sale of tobacco within the meaning of this sub-section.

(2) A licensed wholesale dealer, manufacturer, broker or commission agent shall not sell manufactured tobacco in retail, unless he has been granted a separate licence as a retail dealer.

Tax on turnover of retail and wholesale dealers.

4. (1) Every retail dealer shall pay a tax in each year on his retail sales of manufactured tobacco at the rates specified below in respect of his turnover as determined in accordance with the rules made under sub-section (3) :

- | | |
|--|--|
| (a) If such turnover does not exceed two hundred rupees. | Six rupees. |
| (b) If such turnover exceeds two hundred rupees but does not exceed four hundred rupees. | Twelve rupees. |
| (c) If such turnover exceeds four hundred rupees .. | Three per cent on the first four hundred rupees of the turnover and ten per cent on the remainder of the turnover. |

(2) Every wholesale dealer shall pay a tax in each year on his wholesale sales of manufactured tobacco at the rate of two per cent calculated on his turnover as determined in accordance with the rules made under sub-section (3) :

Provided that the tax under this sub-section shall not be levied on any person who prepares manufactured tobacco of value not exceeding one thousand rupees in a year for the purpose of supplying to wholesale dealers.

(3) The turnover and tax mentioned in sub-section (1) and sub-section (2) shall be determined, assessed and collected in accordance with such rules as may be made in that behalf.

5. (1) No fee shall be levied for the grant of a retail dealer's Licence fees. licence. In respect of every licence granted to a wholesale dealer, manufacturer, broker or commission agent, there shall be levied on the licensee an annual fee as specified in the table below :—

	Fee.
(i) Any wholesale dealer who sells or buys tobacco leaf cured or uncured or any preparation or mixture of tobacco (not being manufactured tobacco) for trade therein or for conversion into manufactured tobacco	One hundred rupees.

Provided that the Collector may issue a licence to any person who deals on a small scale—

- (a) if his turnover is estimated at less than one thousand rupees per annum on a fee of five rupees per annum
- (b) if his turnover is estimated at one thousand rupees or above, but at less than three thousand rupees on a fee of ten rupees per annum.

- | | | | |
|--|----|---------------------|--------------|
| (ii) Any other wholesale dealer, not being a manufacturer governed by item (iii) below | .. | Fifty rupees. | |
| (iii) (a) Any manufacturer to whose premises the Factories Act, 1934, applies or has been extended and in whose premises 200 or more workers are working or were working on any day of the preceding twelve months | .. | One hundred rupees. | XXV of 1934. |
| (b) Any other manufacturer to whose premises the Factories Act, 1934, applies or has been extended | .. | Fifty rupees. | XXV of 1934. |
| (c) Any manufacturer to whose premises the Factories Act, 1934, does not apply, and has not been extended | .. | Two rupees. | XXV of 1934. |
| (iv) A broker or commission agent | .. | Fifty rupees. | |

Provided that any wholesale dealer or manufacturer being a wholesale dealer, who pays a turnover tax under sub-section (2) of section 4 shall for each licence granted to him under item (i), (ii), (iii) (a) or (iii) (b) above be charged an annual fee of ten rupees instead of the fee specified in that item.

(2) The Provincial Government may, from time to time, by notification, alter all or any of the fees specified in sub-section (1), but no such notification shall come into force unless the same is approved by a resolution of the Legislative Assembly.

Possession of tobacco in excess of the quantity prescribed by Government prohibited. 6. No person other than a grower or a licensee under this Act, shall have in his possession any quantity of tobacco in excess of such quantity as the Provincial Government may from time to time prescribe in respect of all or any of the varieties thereof.

7. Every licence under this Act shall be granted—

- (a) for such area, if any,
- (b) for such period,
- (c) subject to such restrictions and on such conditions, and
- (d) in such form and containing such particulars, as the Provincial Government may, by general or special order, direct.

Form and conditions of licences, etc.

8. Where a licensee has more than one shop or place of business, whether in the same town or village or in different towns and villages, he shall obtain a separate licence in respect of each such shop or place of business.

Separate licence for each shop or place of business.

9. Every licensee shall, if so required, execute a counterpart agreement in conformity with the tenor of his licence, and give such security for the performance of his agreement as the Collector may require.

Counterpart agreement to be executed by licensee.

10. (1) The Collector may cancel or suspend any licence granted under this Act—

Power to recall licence, etc.

- (a) if any tax, fee or other due payable in respect of such licence be not duly paid ; or
- (b) if the holder of such licence fails to keep the prescribed accounts or to submit the prescribed returns or if the returns submitted by him are incorrect or incomplete ; or
- (c) in the event of any breach by the holder of such licence or by his agents or servants or by anyone acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence ; or
- (d) if the holder of such licence is convicted of any offence against this Act or any other Revenue Law, or of any cognizable and non-bailable offence under the Indian Penal Code ; or
- (e) if the conditions of such licence provide for the cancellation or suspension thereof for any other reason.

(2) Where a licence is cancelled or suspended under sub-section (1), the holder of the licence shall not be entitled to claim from the Provincial Government any compensation for such cancellation or suspension, nor shall such holder be entitled to claim the refund of any sum paid to, or deposit made with, the Provincial Government, in respect of the licence.

11. All taxes, fees, fines and other sums payable to the Provincial Government under any of the provisions of this Act or of any licence granted under it, 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.

Recovery of fees, etc.

Obligation of licensee to keep books of account and submit returns.

12. (1) Every licensee under this Act shall, in respect of each licence held by him—

(a) keep such books of account and in such form as may be prescribed ; and

(b) submit to the Collector and to such other officers as may be prescribed, a return in such form, containing such particulars and at such intervals, as may be prescribed.

(2) The accounts kept by a licensee under sub-section (1) and the stocks of tobacco with him shall be open to inspection by such officers as the Provincial Government may authorize in that behalf.

(3) Any such officer shall have power to enter and search any place where any licensee carries on business or keeps any stock of tobacco.

(4) Any officer empowered by the Provincial Government in this behalf, may for the purposes of this Act, require any dealer carrying on business in tobacco to produce before him the accounts and other documents and to furnish any other information relating to such business.

Duties of Commissioner.

13. Subject to the control and direction of the Provincial Government, the Commissioner shall superintend the working of this Act and the collection of tobacco revenue in all areas in the Province of Madras to which this Act is applied.

Collectors charged with the carrying out of the provisions of the Act.

14. Subject to the control and direction of the Provincial Government and of the Commissioner, Collectors of districts shall be responsible for the collection of tobacco revenue and the carrying out of the provisions of this Act in all areas in their respective districts to which this Act is applied.

Appointment of Special Collectors.

15. The Provincial Government may, by notification in the Official Gazette, appoint in any district or portion of a district any person other than the Collector of the district, to exercise all or any of the powers or to perform all or any of the duties conferred or imposed by this Act on a Collector, subject to such control and direction, if any, in addition to the control and direction of the Provincial Government and of the Commissioner, as the Provincial Government may from time to time direct.

Appointment of Tobacco Officers.

16. The Provincial Government, or subject to their general or special orders, the Commissioner, may appoint any person, by name or by virtue of his office, to be a Tobacco Officer and assign to him such powers and duties under this Act as the Provincial Government or the Commissioner may think fit.

17. (1) A Collector, a Tobacco Officer specially empowered in this behalf, or a Magistrate, may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence against this Act. Issue of warrants for arrest.

V of 1898.

(2) All warrants issued under sub-section (1) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police officer, or by a Tobacco Officer specially empowered in this behalf, or if the officer issuing the warrant deems fit, by any other person.

18. A Collector or a Tobacco Officer specially empowered in this behalf, may— Power of entry and search without warrant.

(a) enter and search any place in which he has reason to believe that any tobacco liable to confiscation under this Act is kept or concealed ;

(b) seize any tobacco or any other article which he has reason to believe is liable to confiscation under this Act ; and

(c) detain, search and arrest any person whom he has reason to believe to be guilty of any offence against this Act.

V of 1898.

19. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under section 18. Procedure for arrest without warrant.

20. Every officer employed by the Provincial Government or by any local body shall be bound— Duty of officers to report offences, etc.

(a) to give immediate information at the nearest police station, or if so required by any general or special order issued by the Provincial Government to the nearest Tobacco Officer empowered in this behalf, of any breach of any of the provisions of this Act, or of the intention or preparation to commit any such breach, which may come to his knowledge ;

(b) to take all reasonable measures in his power to prevent the commission of any such breach which he may know or have reason to believe is about or likely to be committed ; and

(c) to assist any Tobacco Officer in carrying out the provisions of this Act.

21. (1) Every Tobacco Officer empowered in this behalf shall, within the area for which he is appointed, have power to investigate all offences against this Act. Tobacco Officer to have powers of investigation.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence : V of 1898.

Provided that—

(a) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the Collector ; and

(b) the powers of such officer shall be subject to such further modifications and restrictions as the Provincial Government may determine.

Offences to be bailable.

22. (1) All offences against this Act shall be bailable.

(2) Any Tobacco Officer empowered under section 21 shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence against this Act. V of 1898.

Procedure on seizure.

23. When anything has been seized by a Tobacco Officer exercising powers under section 21, such officer, after such inquiry as he considers necessary—

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken ;

(b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to the Collector ; and

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and make a report to the Collector.

Penalties.

24. Any person who—

(a) in contravention of this Act or of any rule or order made thereunder or of any terms or conditions of a licence, sells, exposes for sale, or keeps, any tobacco or carries on business as a wholesale dealer, manufacturer, broker or commission agent, or

(b) fails to keep books of account as required by clause (a) of sub-section (1) of section 12, or

- (c) fails to submit any return as required by clause (b) of sub-section (1) of section 12, or submits an incorrect or incomplete return, or
- (d) fails to pay within the time allowed, or fraudulently evades the payment of, any tax, fee or other sum due from him to the Provincial Government, or
- (e) acts in contravention of any of the provisions of this Act or of any rule, notification or order or of any terms or conditions of a licence made, issued or granted thereunder,

shall, on conviction by a Magistrate, be liable to a fine which may extend to one thousand rupees and where the breach is a continuing one, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues. Such person shall also be liable to pay any tax or fee which he would have had to pay if he had conformed to the provisions of this Act. The amount of such tax or fee or both, as the case may be, shall be determined by the Magistrate and shall be recoverable as if it were a fine.

25. Whoever intentionally obstructs a Tobacco Officer in the exercise of any powers conferred or the performance of any duties imposed on him by this Act shall, on conviction by a Magistrate, be liable to imprisonment which may extend to three months, or to fine which may extend to five hundred rupees or to both. Punishment for obstructing officers in the performance of duties.

26. Whenever an offence against this Act has been committed, all tobacco in respect of which such offence has been committed and every box, receptacle, package, or covering in which such tobacco is contained and all other contents of such box, receptacle, package or covering, shall be liable to confiscation. Confiscation.

27. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 26, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation. Procedure in confiscation.

(2) When an offence against 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 a Tobacco Officer who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizure of the things

intended to be confiscated or without hearing the persons, if any, claiming any right thereto and the evidence, if any, which they produce in support of their claims.

Power to compound offences, etc.

28. (1) (a) A Collector, or a Tobacco Officer specially empowered in this behalf, may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

- (i) where the offence consists of a sale of tobacco in contravention of this Act or of the failure to pay or the evasion of any tax, fee or sum payable under this Act, in addition to the tax, fee or sum recoverable from him, a sum of money not exceeding five hundred rupees or double the amount of the tax, fee or sum recoverable from him whichever is greater, and
- (ii) in other cases, a sum of money not exceeding five hundred rupees.

(b) On the payment of such sum of money and the tax, fee or sum, if any, recoverable under this Act, to the officer mentioned in clause (a), the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

(2) A Collector, or a Tobacco Officer specially empowered in this behalf, may accept by way of composition, from any person whose licence is liable to be cancelled or suspended under this Act, a sum of money not exceeding five hundred rupees in lieu of such cancellation or suspension.

Cognizance of offences.

29. (1) No Magistrate shall take cognizance of any offence against this Act—

- (i) except upon the complaint or report of a Collector, or a Tobacco Officer or of an Excise, Prohibition, or Police Officer, or
- (ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of the Provincial Government, no Magistrate shall take cognizance of any offence against this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed :

Provided that nothing contained in this sub-section shall apply to any case governed by section 31.

30. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Provincial Government, for any act done or purporting to be done under this Act, without the previous sanction of the Provincial Government. Bar of certain proceedings.

(2) No officer or servant of the Provincial Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

31. No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of. Limitation for certain suits and prosecutions.

32. (1) The Provincial Government may make rules to carry out the purposes of this Act. Power to make rules.

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

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the regulation of the sale, custody and transport of tobacco, or of any form of tobacco, for the purpose of enforcing the provisions of this Act ;
- (c) the cases or classes of cases in which and the authorities to whom appeals shall lie from orders (not being orders passed by any Court or Magistrate) whether original or appellate, passed under this Act or under any rule made thereunder, the authorities by whom such orders may be revised, the time within which and the manner in which appeals may be presented and the procedure for dealing with such appeals ;
- (d) the disposal of articles confiscated and of the proceeds thereof ;
- (e) the powers and duties which may be exercised and performed by Tobacco Officers and the procedure to be followed by them ;
- (f) the delegation of powers conferred by this Act ; and
- (g) any other matter for which there is no provision or no sufficient provision in this Act and for which

provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

Power to
remove diffi-
culties.

33. If any difficulty arises in giving effect to the provisions of this Act or the rules made thereunder, the Provincial Government may, as occasion may arise, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

THE MADRAS GENERAL SALES TAX ACT, 1939.

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MADRAS ACT No. IX OF 1930¹

[THE MADRAS GENERAL SALES TAX ACT, 1939.]

[Received the assent of the Governor on the 4th June 1939, first published in the Fort St. George Gazette on the 13th June 1939.]

An Act to provide for the levy of a general tax on the sale of goods in the Province of Madras.

WHEREAS it is expedient to provide for the levy of a general tax on the sale of goods in the Province of Madras ; It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras General Sales Tax Act, 1939.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once, and the rest of this Act shall come into force on such² date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

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

(a) “ assessing authority ” means any person authorized by the Provincial Government to make any assessment under this Act ;

(b) “ dealer ” means any person who carries on the business of buying or selling goods ;

Explanation (1).—A co-operative society, a club, a firm, or any association which sells goods to its members is a dealer within the meaning of this clause.

Explanation (2).—The agent of a person resident outside the Province who carries on the business of buying or selling goods in the Province shall be deemed to be the dealer in respect of such business for the purposes of this Act.

(c) “ goods ” means all kinds of movable property other than actionable claims, stocks and shares and securities and includes all materials, commodities, and articles ;

(d) “ licence ” means a licence granted or renewed under this Act ;

(e) “ notification ” means a notification published in the *Fort St. George Gazette* ;

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

(g) “ Province ” means the Province of Madras ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 28th February 1939—Part IV, pages 63–64.

² Came into force on the 1st October 1939.

(h) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, but does not include a mortgage, hypothecation, charge or pledge ;

Explanation.—A transfer of goods on the hire-purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale.

(i) "turnover" means the aggregate amount for which goods are either bought by or sold by a dealer; whether for cash or for deferred payment or other valuable consideration provided that the proceeds of the sale by a person of agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall be excluded from his turnover ;

Explanation.—Subject to such conditions and restrictions, if any, as may be prescribed in this behalf—

(i) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof ;

(ii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover ; and

(iii) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former ; and

(j) "year" means the financial year.

3. (1) Subject to the provisions of this Act, every dealer shall pay in each year a tax in accordance with the scale specified below :—

(a) If his turnover does not exceed Five rupees per twenty thousand rupees. month.

(b) If his turnover exceeds twenty thousand rupees. One-half of one per cent of such turnover.

Liability to tax under the Act.

Provided that any dealer whose turnover in any year is less than ten thousand rupees shall not be liable to pay the tax under this sub-section for that year :

Provided further (1) that in respect of the same transaction of sale, the buyer and the seller shall not both be taxed, but only one of them, as shall be determined by the rules made in this behalf under sub-section (2), shall be taxed thereon, and (2) that, when the amount for which any goods were bought by a dealer has been included in his turnover, the amount for which the same goods were sold by him shall not be included in his turnover, for the purposes of this Act.

(2) The turnover for all the purposes of this Act shall be determined in accordance with, and the tax shall be assessed, levied and collected in such manner and in such instalment as may be prescribed by, the rules made by the Provincial Government in this behalf :

Provided that no rule for the determination of the turnover shall come into force unless approved by a resolution of the Legislative Assembly.

(3) Subject to any rules made under sub-section (2) the assessing authority may fix the turnover of any dealer in any year at the amount of his turnover in the previous year.

Application
of the Act.

4. The provisions of section 3 of this Act shall not apply to the sale of electrical energy, motor spirit as defined in the Madras Sales of Motor Spirit Taxation Act, 1939, manufactured tobacco as defined in the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, and any goods on which duty is or may be levied under the Madras Abkari Act, 1886, or the Opium Act, 1878.

Madras
Act VI of
1939.
Madras
Act VIII of
1939.
Madras Act
I of 1886.
I of 1878.

Exemptions
from
taxation.

5. Subject to such restrictions and conditions as may be prescribed, including conditions as to licences and licence fees, the sale of bullion and specie, of cotton, of cotton yarn, and of any cloth woven on handlooms and sold by persons dealing exclusively in such cloth shall be exempt from taxation under section 3.

Sale of hides
and skins.

6. Subject to such restrictions and conditions as may be prescribed, including conditions as to licences and licence fees, the sale of hides and skins whether tanned or untanned, shall be taxed under section 3 only at such single point in the series of sales by successive dealers, as may be prescribed.

Sales of
certain goods
for delivery
outside the
Province.

7. In respect of such finished articles of industrial manufacture as may be notified by the Provincial Government and subject to such restrictions and conditions as may be prescribed,

a rebate shall be allowed of one-half of the tax levied on sales of such articles for delivery outside the Province if such articles are actually so delivered.

8. The Provincial Government may, on application and on payment of such fee as may be prescribed in that behalf, license any person under this section who for an agreed commission or brokerage buys or sells on behalf of known principals specified in his accounts in respect of each transaction and may exempt from the tax under section 3 such of his transactions as are carried out in accordance with the terms and conditions of his licence :

Licensing
and exemp-
tion of
agents.

Provided always that, save where the transaction consists of a sale by a grower of produce grown by him or on his land, no such exemption shall be given unless the amounts for which the goods concerned in such transactions are sold, are included in the turnover of the principals or of the dealers from whom purchases were made, or would have been so included but for an exemption provided under this Act.

9. (1) Every dealer whose turnover is ten thousand rupees or more in a year shall submit such return or returns of his turnover, in such manner, and within such periods as may be specified in the rules made under sub-section (2) of section 3.

Procedure
to be
followed by
assessing
authority.

(2) (a) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete he shall assess the dealer on the basis thereof.

(b) If no return is submitted by the dealer under sub-section (1) before the date prescribed or specified in that behalf or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall proceed to determine the turnover in accordance with the rules made under sub-section (2) of section 3 :

Provided that before taking action under this clause, the dealer shall be given a reasonable opportunity of proving the correctness and completeness of any return submitted by him.

10. The tax assessed under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of assessment, not being less than fifteen days from the date of service of the notice. In default of such payment, the whole of the amount then remaining due may be recovered as if it were an arrear of land revenue.

Payment
and
recovery of
tax.

Appeals.

11. (1) Any assessee objecting to an assessment made on him may, within thirty days from the date on which he was served with notice of the assessment, appeal to such authority as may be prescribed :

Provided that no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable, as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority may think fit.

(4) Every order passed in appeal under this section shall, subject to the powers of revision conferred by section 12, be final.

Revision.

12. The Board of Revenue may in its discretion at any time either *suo motu* or on application, call for and examine the record of any order passed by, or any proceedings recorded by, any officer or person under this Act for the purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

Accounts to be maintained by dealers.

13. Every dealer and every person licensed under section 8 shall keep and maintain a true and correct account showing the value of the goods sold and bought by him ; and in case the accounts maintained in the ordinary course, do not show the same in an intelligible form, he shall maintain a true and correct account in such form as may be prescribed in this behalf :

Provided that this section shall not apply to petty dealers whose business is such as is not likely to make them liable to taxation under this Act.

Powers to order production of accounts and powers of entry and inspection.

14. (1) Any officer empowered by the Provincial Government in this behalf, may, for the purposes of this Act, require any dealer carrying on business in any kind of goods to produce before him the accounts and other documents, and to furnish any other information relating to such business.

(2) All accounts and registers maintained by dealers in the ordinary course of their business, the goods in their possession and their offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officers as may be authorized in this behalf.

(3) Any such officer shall have power to enter, for the purpose referred to in sub-section (2), any office, shop, godown, vessel, vehicle or any other place in which business is done.

15. Any person who—

- (a) wilfully submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder, or
- (b) fails to pay the tax due from him within the time allowed, or
- (c) prevents or obstructs inspection or entry by any officer authorized under section 14, in contravention of the terms thereof, or
- (d) fraudulently evades the payment of any tax due under this Act, or
- (e) wilfully acts in contravention of any of the provisions of this Act,

Offences and penalties.

shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees, and where the breach is a continuing breach, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues.

16. The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

Composition of offences.

- (a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater, and
- (b) in other cases, a sum of money not exceeding one thousand rupees.

17. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Provincial Government, for any act done or purporting to be done under this Act, without the previous sanction of the Provincial Government.

Bar of certain proceedings.

(2) No officer or servant of the Provincial Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

18. No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government

Limitation for certain suits and prosecutions.

in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Power to make rules. 19. (1) The Provincial Government may make rules to carry out the purposes of this Act.

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

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the licensing of persons engaged in the sale of goods and the imposing of conditions in respect of the same for the purpose of enforcing the provisions of this Act and fees for licences ;
- (c) the assessment to tax under this Act of businesses which are discontinued or the ownership of which has changed ;
- (d) the assessment to tax under this Act of businesses owned by minors and other incapacitated persons or by persons residing outside the Province of Madras ;
- (e) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a Court ;
- (f) the assessment to tax under this Act of any turnover which has escaped assessment, and the period within which such assessment may be made, not exceeding three years ;
- (g) the rectification of mistakes apparent from the record of any assessment, appeal or revision and the period within which such rectification may be made ;
- (h) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation ;
- (i) securing that returns furnished or accounts or documents produced or evidence of any kind given under this Act before any assessing authority or on appeal or revision from any decision of such authority are kept confidential ;
- (j) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act ;

(k) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act ; and

(l) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the Provincial Government may provide that a person guilty of a breach thereof shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication for a period of not less than four weeks.

(5) 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.

20. If, when this Act comes into force, the tax is leviable for the second half of any year, it shall be levied in accordance with the scale specified in section 3 and on the basis of the turnover as determined in accordance with the rules made under this Act. Transitional provision for levy of tax.

21. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty. Power to remove difficulties.

THE MADRAS ENTERTAINMENTS TAX ACT, 1939.
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MADRAS ACT No. X OF 1939¹.

[THE MADRAS ENTERTAINMENTS TAX ACT, 1939.]

[Received the assent of the Governor on the 10th June 1939, first published in the Fort St. George Gazette on the 20th June 1939.]

An Act to impose a tax on amusements and other entertainments in the Province of Madras.

WHEREAS it is expedient to provide for the levy by the Provincial Government of a tax on amusements and other entertainments, to repeal the Madras Local Authorities Entertainments Tax Act, 1926, and to provide for the payment of compensation to local authorities now levying a tax under the Act aforesaid; It is hereby enacted as follows:—

Madras Act
V of 1927.

1. (1) This Act may be called the Madras Entertainments Tax Act, 1939.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once, and the rest of this Act shall come into force on such² date as the Provincial Government may, by notification in the Official Gazette, appoint.

Madras Act
V of 1927.

2. The Madras Local Authorities Entertainments Tax Act, 1926, is hereby repealed.

Repeal of
Madras Act
V of 1927.

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

Definitions.

(1) "admission" includes admission as a spectator or as one of an audience, and admission for the purpose of amusement by taking part in an entertainment;

(2) "admission to an entertainment" includes admission to any place in which an entertainment is held;

(3) "agriculture" includes horticulture and the breeding of animals of every description;

(4) "entertainment" includes any exhibition, performance, amusement, game, sport or race to which persons are admitted for payment;

(5) "institution" includes a company, society, club or other association of persons by whatever name called;

(6) "local authority" means the Corporation of Madras, or a municipal council or a local board constituted under any enactment for the time being in force;

(7) "payment for admission" includes—

(a) any payment made by a person who, having been admitted to one part of a place of entertainment, is³

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 7th March 1939—Part IV, pages 74-75.

² Came into force on the 1st August 1939.

subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher tax is required ;

- (b) any payment for seats or other accommodation in a place of entertainment ; and
- (c) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment ;
- (8) "prescribed" means prescribed by rules made under this Act ; and
- (9) "proprietor" in relation to any entertainment includes any person responsible for the management thereof.

Tax on pay-
ments for
admission
to entertain-
ments.

4. Except as otherwise expressly provided in this Act, there shall be levied, and paid to the Provincial Government, on all payments for admission to any entertainment, a tax (hereinafter referred to as the entertainments tax) at the following rates, namely :—

Where the payment, excluding the amount of the tax—

	Amount of tax.
(i) is not more than two annas	Three pies.
(ii) is more than two annas but less than six annas	Six pies.
(iii) is six annas or more but is less than twelve annas	One anna.
(iv) is twelve annas or more but is less than one rupee eight annas	Two annas.
(v) is one rupee eight annas or more but is less than two rupees eight annas	Four annas.
(vi) is two rupees eight annas or more but is less than three rupees eight annas	Eight annas.
(vii) is three rupees eight annas or more but is less than four rupees eight annas	Twelve annas.
(viii) is four rupees eight annas or more but is less than six rupees eight annas	One rupee.
(ix) is six rupees eight annas or more but is less than nine rupees eight annas	One rupee eight annas.
(x) is nine rupees eight annas or more but is less than ten rupees	Two rupees.

Amount of tax.

(xi) is ten rupees or more

Two rupees in respect of the first ten rupees and two rupees for every ten rupees or portion thereof in excess of the first ten rupees.

5. The Provincial Government may, on the application of the proprietor of any entertainment in respect of which the entertainments tax is payable under section 4, allow the proprietor on such conditions as they may lay down—

Composition and consolidated payment of tax.

- (a) to compound the tax payable in respect of such entertainment for a fixed sum ; or
- (b) to pay the amount of the tax due by means of a consolidated payment at such percentage of the gross proceeds received by the proprietor on account of payments for admission to such entertainment and on account of the tax, as the Provincial Government may fix.

6. (1) Save in the cases referred to in section 5, no person shall be admitted for payment to any entertainment where the payment is subject to the entertainments tax except—

Admission to entertainments.

- (a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not previously used) issued by the Provincial Government and indicating the proper tax for such ticket, or
- (b) in special cases, with the approval of the Provincial Government, through a barrier which, or by means of a mechanical contrivance which automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by the Provincial Government for furnishing returns of the payments for admission to the entertainment and has given security up to an amount and in a manner approved by the Provincial Government for the payment of the entertainments tax.

(2) Nothing in sub-section (1) shall be deemed to preclude the Provincial Government from requiring security from the proprietor of an entertainment for the payment of the entertainments tax in any other case.

7. (1) The entertainments tax shall be levied in respect of each person admitted for payment, and in the case of admission by stamped ticket, shall be paid by means of the stamp

Manner of payment of tax.

on the ticket, and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

(3) Where the payment for admission to an entertainment is made wholly or partly by means of a lump sum paid as a subscription or contribution to any institution, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the Provincial Government are of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be levied on such an amount as appears to the Provincial Government to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

Entertainments exempted from payment of tax.

8. (1) The entertainments tax shall not be levied on payments for admission to any entertainment where the Provincial Government are satisfied—

- (a) that the entire gross proceeds of the entertainment are devoted to philanthropic, religious or charitable purposes without any charge on such proceeds for any expenses of the entertainment ; or
- (b) that the entertainment is of a wholly educational character ; or
- (c) that the entertainment is provided for purposes which are partly educational, cultural or scientific by an institution not conducted or established for profit ; or
- (d) that the entertainment is provided by an institution not conducted for profit and established solely for the purpose of promoting the public health or the interests of agriculture or of a manufacturing industry, and consists solely of an exhibition of articles which are of material interest in connexion with questions relating to public health or agriculture, or of the products of the industry for promoting the interests of which the institution exists or of the materials, machinery, appliances or foodstuffs used in the production of those products.

(2) The Provincial Government may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax.

9. Where the Provincial Government are satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds, not more than twenty-five per cent of the gross proceeds have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

Refunds in certain cases.

10. Any amount due on account of the entertainments tax may be recovered by the Provincial Government as if it were an arrear of land revenue.

Manner of recovery of tax.

11. (1) (a) Any officer authorized by the Provincial Government in this behalf may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable time, for the purpose of seeing whether the provisions of this Act or any rules made thereunder are being complied with.

Inspection.

Act XLV of 1860.

(b) Every officer so authorized shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(2) The proprietor of every entertainment or the owner or person in charge of any place ordinarily used as a place of entertainment shall give every reasonable assistance to the inspecting officer in the performance of his duties under subsection (1).

(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine which may extend to five hundred rupees.

Exemption from payment for admission.

12. The officer referred to in section 11 or any other officer who has to enter any place of entertainment in pursuance of a duty imposed upon him by or under this Act or any other law shall not be required to pay for his admission to the entertainment.

Payment of compensation to local authorities.

13. (1) From the proceeds of the tax collected under this Act every year, there shall be paid to each of the local authorities which were in receipt of an income from the tax levied under the Madras Local Authorities Entertainments Tax Act, 1926, during any part of the three years preceding the 1st

Madras Act V of 1927.

April, 1939, a sum equivalent to the average net annual income derived by such local authority during those three years from the tax so levied :

Provided that from the amount payable under this sub-section to any local authority for the first year after the commencement of this Act, the net income derived by that authority from any tax levied on and after the 1st April of that year under the Madras Local Authorities Entertainments Tax Act, 1926, shall, be deducted.

Madras Act
V of 1927.

Explanation.—In this sub-section, “year” shall mean the financial year.

(2) The Provincial Government shall determine the sums which should be paid to local authorities under sub-section (1) and their determination shall be final.

Penalties.

14. The proprietor of any entertainment who—

- (a) admits any person for payment to any place of entertainment in contravention of the provisions of section 6, or
- (b) fails to pay the tax due from him within the time prescribed, or
- (c) fraudulently evades the payment of any tax due under this Act, or
- (d) contravenes any of the provisions of this Act,

shall, on conviction by a Magistrate, be liable in respect of each such offence to a fine which may extend to five hundred rupees, and shall in addition, be liable to pay any tax which should have been paid.

Power to compound offences.

15. The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

- (a) where the offence consists of the failure to pay, or the evasion of, any tax payable under this Act, in addition to the tax so payable, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater, and
- (b) in other cases, a sum of money not exceeding five hundred rupees.

Power to make rules.

16. (1) The Provincial Government may make rules for securing the payment of the entertainments tax and generally for carrying into effect the purposes of this Act.

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

- (a) for the supply and use of stamps or stamped or embossed tickets, or for the stamping or embossing of tickets sent to be stamped or embossed, and for securing the defacement of stamps when used ;
- (b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon ; and for the payment of the tax on the transfer from one part of a place of entertainment to another, and on payments for seats or other accommodation ;
- (c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount) and for securing proper records of admission by means of barriers or mechanical contrivances ;
- (d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 5 are applied or in respect of which the arrangements approved by the Provincial Government for furnishing returns are made under section 6 ;
- (e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Act or under the rules made thereunder ;
- (f) for the keeping of accounts of all stamps used under this Act ;
- (g) for the presentation and disposal of applications for exemption from payment of the entertainments tax, or for the refund thereof, made under the provisions of this Act ;
- (h) for the collection of the entertainments tax under this Act and the powers to be exercised by the officers of the Provincial Government in that behalf ;
- (i) for authorizing any local authority to collect the entertainments tax on behalf of the Provincial Government in the area within the jurisdiction of the local authority or any part of such area, for the payment of a commission to the local authority for making the collection, and for the powers to be exercised by the officers of the local authority in connexion with such collection ;

(j) for the issue of passes by proprietors of entertainments for the admission of officers who have to perform any duty in connexion therewith or any other duty imposed upon them by law ; and

(k) for any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

In making a rule under sub-section (1) or sub-section (2), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

(5) All rules made under this section shall be published in the Official Gazette, and on such publication shall have effect as if enacted in this Act.

Bar of
certain
proceedings.

17. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Provincial Government, for any act done or purporting to be done under this Act, without the previous sanction of the Provincial Government.

(2) No officer or servant of the Provincial Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitation
for certain
suits and
prosecu-
tions.

18. No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Proceedings,
etc., against
officers and
servants of
a local
authority
collecting
the tax.

19. If any local authority has been authorized under this Act to collect the entertainments tax on behalf of the Provincial Government, the provisions of sections 17 and 18 shall apply in regard to the officers and servants of such authority in the same manner as they apply in regard to the officers and servants of the Provincial Government.

20. (1) The Provincial Government may, by notification in the Official Gazette, delegate all or any of their powers under this Act except those conferred upon them by sub-section (3) of section 1, section 16 and this section, to any person or authority subordinate to the Provincial Government, and may in like manner withdraw any powers so delegated.

Delegation of certain powers of the Provincial Government.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the Provincial Government, and shall also be subject to control and revision by them.

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MADRAS ACT No. XI OF 1939.¹

[THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL
BOARDS (AMENDMENT) ACT, 1939.]

[Received the assent of the Governor on the 11th June 1939,
first published in the Fort St. George Gazette on the 20th
June 1939.]

An Act further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras Act V of 1920.
Madras Act XIV of 1920.

1. This Act may be called the Madras District Municipalities and Local Boards (Amendment) Act, 1939.

2. In the Madras District Municipalities Act, 1920—

(i) after sub-section (2) of section 40, the following sub-section shall be added, namely :—

[Vide p. 365, Vol. III.]; and

(ii) in sub-section (1) of section 83, for clause (e), the following clause shall be substituted, namely :—

[Vide clause (i) of section 83, p. 394, Vol. III.]

Amendment of sections 40 and 83, Madras Act V of 1920.

3. In section 43 of the Madras Local Boards Act, 1920, after sub-section (2) the following sub-section shall be added, namely :—

[Vide p. 663, Vol. III.]

Amendment of section 43, Madras Act XIV of 1920.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 31st January 1939, Part IV, pages 16-17.

MADRAS ACT No. XII OF 1939.¹

[THE TIRUMALAI-TIRUPATI DEVASTHANAMS (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor on the 11th June 1939,
first published in the Fort St. George Gazette on the 20th
June 1939.]

An Act to amend the Tirumalai-Tirupati Devasthanams
Act, 1932, for certain purposes.

WHEREAS it is expedient to amend the Tirumalai-Tirupati
Devasthanams Act, 1932, for the purposes hereinafter appear-
ing; It is hereby enacted as follows:—

MADRAS ACT
XIX OF
1933.

Short title.

1. This Act may be called the Tirumalai-Tirupati Deva-
sthanams (Amendment) Act, 1939.

Amendment
of section 1,
MADRAS ACT
XIX OF
1933.

2. In sub-section (2) of section 1 of the Tirumalai-Tirupati
Devasthanams Act, 1932 (hereinafter referred to as the said
Act), after the words "applies to" the words "the Tirumalai
Hills area as notified by the Provincial Government in the
Official Gazette from time to time," shall be inserted.

MADRAS ACT
XIX OF
1933.

Amendment
of section 4,
MADRAS ACT
XIX OF
1933.

3. In section 4 of the said Act—

- (i) the word "and" at the end of clause (xi) shall be
omitted; and
- (ii) after clause (xii), the following shall be added,
namely:—

[Vide p. 330 *supra*.]

Insertion
of new
Chapter V-A
in MADRAS
ACT XIX OF
1933.

4. After Chapter V of the said Act, the following Chapter
shall be inserted, namely:—

[Vide p. 336 *supra*.]

Amendment
of section
36, MADRAS
ACT XIX OF
1933.

5. In section 36 of the said Act, clauses (v) and (vi) shall
be re-numbered as clauses (vii) and (viii) respectively, and
after clause (iv), the following clauses shall be inserted, namely:

[Vide p. 336 *supra*.]

Amendment
of section
37, MADRAS
ACT XIX OF
1933.

6. In sub-section (1) of section 37 of the said Act—

- (i) the word "and" at the end of clause (ii) shall be
omitted;
- (ii) clause (iii) shall be re-numbered as clause (vi);
and
- (iii) after clause (ii), the following shall be inserted,
namely:—

[Vide p. 337 *supra*.]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 21st March 1939, Part IV, p. 175.

MADRAS ACT No. XIII OF 1939.¹

[THE MADRAS BORSTAL SCHOOLS (AMENDMENT) ACT,
1939.]

[Received the assent of the Governor on the 11th June 1939,
first published in the Fort St. George Gazette on the 20th
June 1939.]

An Act further to amend the Madras Borstal Schools
Act, 1925, for a certain purpose.

Madras Act
V of 1926. WHEREAS it is expedient further to amend the Madras Borstal
Schools Act, 1925, for the purpose hereinafter appearing ; It is
hereby enacted as follows :—

1. This Act may be called the Madras Borstal Schools Short title.
(Amendment) Act, 1939.

Madras Act
V of 1926. 2. After section 10 of the Madras Borstal Schools Act, 1925, Insertion of
the following section shall be inserted, namely :— new section
[Vide p. 125 supra.] 10-A in
Madras Act
V of 1926.

MADRAS ACT No. XIV OF 1939.²

[THE MADRAS CHILDREN (AMENDMENT) ACT, 1939.]

[Received the assent of the Governor on the 11th June 1939, first
published in the Fort St. George Gazette on the 20th June
1939.]

An Act further to amend the Madras Children Act,
1920, for certain purposes.

Madras Act
IV of 1920. WHEREAS it is expedient further to amend the Madras Children
Act, 1920, for the purposes hereinafter appearing ; It is hereby
enacted as follows :—

1. This Act may be called the Madras Children (Amendment) Short title.
Act, 1939.

Madras Act
IV of 1920. 2. To sub-section (1) of section 33 of the Madras Children Amendment
Act, 1920 (hereinafter referred to as the said Act), the following of section
proviso shall be added, namely :— 33, Madras
[Vide pp. 312-313, Vol. III.] Act IV of
1920.

3. In section 35 of the said Act, after sub-section (2), the Amendment
following sub-section shall be inserted, namely :— of section
[Vide pp. 314-315, Vol. III.] 35, Madras
Act IV of
1920.

4. After section 35 of the said Act, the following section Insertion of
shall be inserted, namely :— new section
[Vide p. 315, Vol. III.] 35-A in
Madras Act
IV of 1920.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 7th March 1939, Part IV, p. 78.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*,
dated 4th April 1939, Part IV, pp. 202-203.

MADRAS ACT No. XV OF 1939.¹

[THE MADRAS REVENUE RECOVERY (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor on the 6th July 1939, first
published in the Fort St. George Gazette on the 11th July
1939.]

An Act further to amend the Madras Revenue Recovery
Act, 1864, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Revenue
Recovery Act, 1864, for the purpose hereinafter appearing ; Madras Act
II of 1864.
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Revenue Recovery
(Amendment) Act, 1939.

Amendment
of section
52, Madras
Act II of
1864.

2. In section 52 of the Madras Revenue Recovery Act, 1864,
after the words “ and all cesses lawfully imposed upon land ”, Madras Act
II of 1864.
the words “ and all sums due to the Provincial Government,
including compensation for any loss or damage sustained by
them in consequence of a breach of contract ” shall be
inserted.

MADRAS ACT No. XVI OF 1939.²

[THE MADRAS MATERNITY BENEFIT (AMENDMENT)
ACT, 1939.]

[Received the assent of the Governor-General on the 30th June
1939, first published in the Fort St. George Gazette on the
11th July 1939.]

An Act to amend the Madras Maternity Benefit Act
1934, for certain purposes.

WHEREAS it is expedient to amend the Madras Maternity
Benefit Act, 1934, for the purposes hereinafter appearing ; It
is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Maternity Benefit Madras Act
VI of 1935.
(Amendment) Act, 1939.

Amendment
of section 5,
Madras Act
VI of 1935.

2. In section 5 of the Madras Maternity Benefit Act, 1934 Madras Act
VI of 1935.
(hereinafter referred to as the said Act), for the proviso to sub-
section(1), the following proviso shall be substituted, namely :—

[Vide p. 411 supra.]

Amendment
of section 8,
Madras Act
VI of 1935.

3. In clause (a) of sub-section (2) of section 8 of the said
Act, for the words “ three months before her confinement ”,
the words “ five months before her confinement ” shall be
substituted.

¹ For Statement of Objects and Reasons, see Fort St. George Gazette,
dated the 10th January 1939, Part IV, p. 3.

² For Statement of Objects and Reasons, see Fort St. George Gazette,
dated the 7th March 1939, Part IV, pp. 79-80.

THE MAPPILLA MARUMAKKATTAYAM ACT, 1938.

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MADRAS ACT No. XVII OF 1939.¹

[THE MAPPILLA MARUMAKKATTAYAM ACT, 1938.]

[Received the assent of the Governor-General on the 29th June 1939, first published in the Fort St. George Gazette on the 18th July 1939.]

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, partition and succession among the Mappillas following the Marumakkattayam Law ; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title. 1. (a) This Act may be called the Mappilla Marumakkattayam Act, 1938.

Extent. (b) It shall apply to all Mappillas following the Marumakkattayam Law, who are either domiciled in the Province of Madras, or have property situate within the Province of Madras.

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

(a) “ Anandravan ” means any member of a tarwad or tavazhi, as the case may be, other than the karnavan.

(b) “ Karnavan ” means the oldest major male member of a tarwad or tavazhi, as the case may be, in whom the right to management of its properties vests or in the absence of such a male member, the oldest major female member ; or where by custom or family usage, the right to such management vests in the oldest major female member, such female member.

(c) “ Major ” means a person who has attained eighteen years of age.

(d) “ Marumakkattayam ” means the system of inheritance in which descent is traced in the female line.

(e) “ Minor ” means a person who has not attained eighteen years of age.

(f) “ Tarwad ” means a joint family which includes all its members with community of property governed by the Marumakkattayam Law.

(g) “ Tavazhi ” means a branch of a tarwad consisting of a female, her children and all her descendants in the female line.

CHAPTER II.—TARWAD AND ITS MANAGEMENT.

Duty of the karnavan to maintain an inventory. 3. The karnavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the tarwad.

Duty of the karnavan to keep accounts. 4. The karnavan shall keep true and correct accounts of the income and expenditure of the tarwad.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 12th October 1937, Part IV, pp. 52-53.

(Chapter II—Tarwad and its Management.)

5. (1) The inventory and the accounts of each year of the Malabar Era, shall be available for inspection at the tarwad house by the major anandravans throughout the month of Vrischikam following such year, and any such anandravan may take copies of or extracts from the same.

Right of anandravans to inspect inventory and accounts.

(2) If the inventory or accounts are not made available for inspection as provided for in sub-section (1), the Court of a District Munsif having jurisdiction over the place where the tarwad house is situated may, on application by any major anandravan, and after notice to the karnavan, pass an order causing the inventory or accounts to be produced in court and allowing the anandravan to inspect, or to take copies of or extracts from, such inventory or accounts.

6. Every member of a tarwad whether living in the tarwad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the tarwad.

Right of every member for maintenance.

7. Any surplus left out of the income of a tarwad after providing for the customary or legitimate expenses of the tarwad including charges pertaining to the education, marriage, or death of the members of the tarwad, and the charges necessary for zakat and the proper maintenance or upkeep of the tarwad properties, shall be applied by the karnavan in the purchase of immovable property for the tarwad or otherwise invested to the best advantage of the tarwad.

Investment of surplus income.

8. (1) Except for consideration and for tarwad necessity or benefit and with the written consent of the majority of the major members of the tarwad, no karnavan shall sell immovable property of the tarwad or mortgage with possession or lease such property for a period exceeding twelve years.

Alienation of immovable property by karnavan.

(2) No mortgage with possession or lease with premium returnable wholly or in part of any such property executed by a karnavan for a period not exceeding twelve years, shall be valid, unless such mortgage or lease is for consideration and for tarwad necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part or the renewal of an existing kanom.

9. No debt contracted or mortgage without possession executed by a karnavan shall bind the tarwad unless the debt is contracted or the mortgage is executed for tarwad necessity.

Debt contracted by karnavan when binding on tarwad.

*(Chapter II—Tarwad and its Management.
Chapter III—Partition.)*

Immovable property when liable for attachment or sale for maintenance. 10. No immovable property of the tarwad shall be liable to attachment or sale in execution of any decree obtained by an anandravan for maintenance, until after the decree-holder has exhausted his remedies, if any, against the personal property of the karnavan or the income of the tarwad property.

Right to remove karnavan by suit. 11. An anandravan may institute a suit in a civil court for the removal of a karnavan—

- (i) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the tarwad ;
- (ii) for any misappropriation or improper dealing with the income or the properties of the tarwad ;
- (iii) for unsoundness of mind or any physical or mental infirmity which unfits him for discharging the functions of a karnavan ;
- (iv) for persistent default in the maintenance of the inventory referred to in section 3 or the accounts referred to in section 4 or in making them available for inspection by the anandravans under section 5 ; or
- (v) for any other sufficient cause which, in the opinion of the court, makes his continuance as karnavan injurious to the interests of the tarwad.

Relinquishment of right of management by karnavan. 12. Any karnavan may, by a registered document, give up his right of management.

CHAPTER III.—PARTITION.

Right of individual members to claim partition. 13. Any individual member of a tarwad may claim to take his or her share of the properties of the tarwad over which the tarwad has power of disposal and separate from the tarwad.

Right of tavazhi to claim partition. 14. Two or more members belonging to the same tavazhi, may claim to take their share of the properties of the tarwad over which the tarwad has power of disposal, separate from the tarwad, and enjoy the same jointly, with all the incidents of tarwad property.

Representation of minor in claim to partition. 15. For purposes of sections 13 and 14, a minor member of a tarwad shall be represented by his or her mother and in the absence of the mother, by his or her guardian under the Islamic Law.

Partition of tarwad house. 16. In a partition of tarwad properties, unless two-thirds of the members of the tarwad desire to the contrary, the tarwad house including the site or sites of any building appurtenant thereto and such other land as is necessary for the convenient enjoyment of the tarwad house shall be kept undivided for the common use of all the members of the tarwad, in which case,

(Chapter III—Partition. Chapter IV—Registration of Tarwads.)

the charges of upkeep and maintenance of the tarwad house shall be borne by the member or members that live in the house :

Provided that where such house is no longer used or required for purposes of residence or is continually neglected, such house, site or sites and land may be divided among the members of the tarwad entitled thereto.

17. In case of a division under section 13 or section 14, the individual member, or the members of the tavazhi as the case may be, shall be entitled to such share or shares of the tarwad properties as would fall to such individual member or to such members, if a division *per capita* were made among all the members of the tarwad then existing. Ascertainment of share at partition.

18. Succession to the property obtained by an individual member on partition shall be governed by the Islamic Law of inheritance. Subsequent devolution of the property.

19. The provisions of this chapter shall not apply to the Arakkal family or to the stanom properties of the Ali Rajas of Cannanore. Exemption of Arakkal family from partition.

CHAPTER IV—REGISTRATION OF TARWADS.

20. (1) If within a year from the passing of this Act not less than two-thirds of the major members of a tarwad present a petition to the Collector of the district in such form and with such particulars as may be prescribed he shall, after satisfying himself that not less than two-thirds of the major members of the tarwad consent and desire the registration of the tarwad as impartible, register the tarwad as impartible. Registration as impartible tarwad.

(2) On such registration the provisions of Chapter III shall not apply to such tarwad unless and until the registration is cancelled under section 21.

(3) During the pendency of a petition under sub-section (1) of this section, all proceedings in court, if any, under Chapter III shall be stayed.

21. (1) If at any time after the registration of a tarwad as impartible, not less than two-thirds of the members of the tarwad present a petition to the Collector in such form and with such particulars as may be prescribed for the cancellation of such registration the Collector shall, after satisfying himself that not less than two-thirds of the major members of the tarwad consent and desire the cancellation of the registration, cancel such registration. Cancellation of registration.

(2) On such cancellation the provisions of Chapter III shall apply to such tarwad.

(Chapter IV—Registration of Tarwads. Chapter V—
General.)

Collector's
powers.

22. The Collector shall, for the purposes of this chapter, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

(a) enforcing of attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents ; and

(c) issuing commissions for the examination of witnesses ; and any proceeding before the Collector under this chapter shall be deemed to be a judicial proceeding.

Collector's
order to be
final.

23. The order of the Collector registering a tarwad as impartible under section 20 or cancelling such registration under section 21, shall be final and shall not be questioned in any civil court.

Collector to
maintain a
register.

24. The Collector shall keep a register of all petitions presented to him under sections 20 and 21 and of all orders passed by him on such petitions and shall on payment of the prescribed fee, give a copy, certified under his hand, of any entry therein.

CHAPTER V—GENERAL.

Chapters
II and III
to apply to
tavazhi.

25. The provisions of Chapters II and III shall apply to every tavazhi possessing separate properties as if it were a tarwad.

Provincial
Government
to make
rules.

26. The Provincial Government may make rules consistent with this Act to carry out the provisions thereof and these rules shall have effect as if enacted in this Act from the date of publication of the same in the *Fort St. George Gazette*.

Savings.

27. Nothing contained in this Act shall be deemed to affect the provisions of the Mappilla Succession Act, 1918, or of the Mappilla Wills Act, 1928, or of any law or custom or usage except to the extent expressly laid down in this Act.

MADRAS ACT No. XVIII OF 1939.¹

[THE MADRAS RESTORATION OF VILLAGE OFFICERS
(VALIDATION) ACT, 1939.]

[Received the assent of the Governor-General on the 12th July 1939, first published in the *Fort St. George Gazette* on the 25th July 1939.]

An Act to validate the restoration of village officers who lost their offices by reason of their association or connexion with political movements.

WHEREAS certain village officers in the Province of Madras or their registered heirs lost their offices or their right to the offices by reason of their association or connexion with political movements ;

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated the 4th April 1939, Part IV, pp. 199-200.

Madras Act
VIII of
1922.

AND WHEREAS by reason of the Madras Proprietary Estates' Village-service and the Hereditary Village Offices Temporary Amendment Act, 1922, the hereditary right to the offices, of the undivided members of the families of certain village officers who had lost their offices as aforesaid has ceased ;

AND WHEREAS it is desirable now to restore the position which would have obtained if the officers or heirs aforesaid had not lost their offices or their right thereto and thereby establish an atmosphere of contentment and peace ;

AND WHEREAS some doubts have been raised as to the validity of certain orders already passed by the Provincial Government in pursuance of the aforesaid policy ; and it is expedient to remove such doubts and validate all orders which have been so passed or which may hereafter be passed by the Provincial Government on the subject ;

It is hereby enacted as follows :—

1. This Act may be called the Madras Restoration of Village Officers (Validation) Act, 1939. Short title.

Madras Act
II of 1894.
Madras Act
III of 1895.

2. Notwithstanding anything contained in the Proprietary Estates' Village-service Act, 1894, or in the Madras Hereditary Village Offices Act, 1895, or in any decree or order passed in any suit, appeal, application, or revision or other proceeding (whether instituted, made, or taken under the Acts aforesaid or not), every order which has been, or which may hereafter be, passed by, or on the direction of, the Provincial Government—

Validation
of certain
orders
restoring,
etc., village
officers in
certain
cases.

- (a) restoring a village officer who, by reason wholly or partly of his association or connexion with any political movement had been removed or dismissed from his office, or had resigned therefrom, or had otherwise in any manner whatsoever ceased to hold the same ; or
- (b) appointing to the office or registering as entitled thereto the heir of any such village officer or of any person who in the ordinary course of events would have succeeded to the office or been registered as entitled thereto ; or
- (c) appointing to a village office any person who, by reason wholly or partly of his association or connexion with any political movement, had declined to accept the office or had been declared ineligible therefor ; or
- (d) appointing to the village office or registering as entitled thereto, the heir of any such person or of any other person who in the ordinary course of events, would have succeeded to the office or been registered as entitled thereto ; or

Commercial Crops Markets (Amendment) [1939 : Mad. Act XIX

(e) directing the removal of any person from a village office in consequence of an order of the nature referred to in clause (a), (b), (c) or (d) above,

shall be valid and be given effect to according to its tenor, and no such order shall be called in question in any Court of law.

Declaration by Government to be conclusive proof.

3. If the Provincial Government declare that any order passed by them is of the nature referred to in section 2, such declaration shall be conclusive proof thereof, and all Courts shall take judicial notice of the same.

Provision for suits instituted and decrees passed before Act, etc.

4. (1) Every suit, appeal, application, or revision or other proceeding instituted, made or taken before the commencement of this Act for a declaration that any order of the nature referred to in section 2 is invalid or for any relief based on such invalidity shall be dismissed by the Court or other authority concerned.

(2) If before the commencement of this Act any decree or order has been passed in any such suit, appeal, application, or revision or other proceeding, which is inconsistent with the provisions of section 2, the Court or other authority concerned shall, on the application of any person affected by such decree or order, whether or not he was a party thereto, vacate the decree or order and pass a fresh decree or order which shall be in conformity with section 2 aforesaid.

MADRAS ACT No. XIX OF 1939.¹

[THE MADRAS COMMERCIAL CROPS MARKETS (AMENDMENT) ACT, 1939.]

[Received the assent of the Governor on the 19th August 1939, first published in the Fort St. George Gazette on the 22nd August 1939.]

An Act further to amend the Madras Commercial Crops Markets Act, 1933, for certain purposes.

WHEREAS it is expedient further to amend the Madras Commercial Crops Markets Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras Act XX of 1933.

Short title.

1. This Act may be called the Madras Commercial Crops Markets (Amendment) Act, 1939.

Amendment of section 2, Madras Act XX of 1933.

2. In clause (iv) of section 2 of the Madras Commercial Crops Markets Act, 1933 (hereinafter referred to as the said Act), after the word and figure "section 4", the words, figure and letter "as altered by the notification or notifications, if any, under section 5-A" shall be added.

Madras Act XX of 1933.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 20th June 1939, Part IV, pp. 251-252.

3. (1) In section 6 of the said Act, for clause (iv) of sub-section (1), the following clause shall be substituted, namely :—
[*Vide p. 346 supra.*]

Amendment
of section 6,
Madras
Act XX of
1933.

(2) In the same section, in the first proviso to sub-section (2), after the expression “ clause (iii) ”, the expression “ or clause (iv) ” shall be inserted.

4. After section 11 of the said Act, the following section shall be inserted, namely :—

[*Vide p. 348 supra.*]

Insertion of
new section
11-A in
Madras Act
XX of 1933.

5. In section 13 of the said Act—

(i) in clause (viii), the word “ and ” at the end shall be omitted ; and

Amendment
of section
13, Madras
Act XX of
1933.

(ii) clause (ix) shall be renumbered (x) and after clause (viii), the following clause shall be inserted, namely :—

[*Vide p. 349 supra.*]

6. In sub-section (2) of section 18 of the said Act, after clause (iv), the following clause shall be inserted, namely :—

[*Vide p. 352 supra.*]

Amendment
of section
18, Madras
Act XX of
1933.

7. Any member of a market committee elected under clause (iv) of sub-section (1) of section 6 of the said Act and holding office at the commencement of this Act shall, subject to the second proviso to sub-section (2) of section 6 aforesaid and the Explanation to that proviso, be entitled to continue to be a member for the remaining portion of his period of office ; and nothing contained in the first proviso to sub-section (2) of section 6 aforesaid as amended by this Act shall apply to him.

Continuance
in office of
certain
existing
members of
market
committees.

MADRAS ACT No. XX OF 1939.¹

[THE MADRAS CITY MUNICIPAL (AMENDMENT) ACT, 1939.]

[*Received the assent of the Governor on the 20th August 1939,
first published in the Fort St. George Gazette on the 29th
August 1939.*]

An Act further to amend the Madras City Municipal Act, 1919, for a certain purpose.

WHEREAS it is expedient further to amend the Madras City Municipal Act, 1919, for the purpose of providing for the reconstitution of the council of the Corporation of Madras once in every three years ; It is hereby enacted as follows :—

Madras Act
IV of 1919.

1. This Act may be called the Madras City Municipal (Amendment) Act, 1939.

Short title.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 25th July 1939, Part IV, p. 298.

734 *City Municipal (Amendment)* [1939 : Mad. Act XX]
City Municipal, District Municipalities [1939 : Mad. Act XXI]
and Local Boards (Amendment)

Certain
councillors
and alder-
men to
vacate office
on 1st
November
1940 instead
of on 1st
November
1939 and 1st
November
1941.

2. The term of office of the councillors and aldermen who under the Madras City Municipal Act, 1919 (hereinafter referred to as the said Act) will vacate their offices at noon on the first day of November 1939 shall extend instead, up to noon on the first day of November 1940 and the term of office of the councillors who under the said Act will vacate their offices at noon on the first day of November 1941 shall expire instead at noon on the first day of November 1940; and the provisions of the said Act as amended by sections 3 and 4 of this Act shall have effect accordingly.

Madras Act
IV of 1919.

Amendment
of section 28,
Madras Act
IV of 1919.

3. In section 28 of the said Act—

(i) in sub-section (1), clause (c) and the word “and” occurring at the end of clause (b) shall be omitted, and at the end of clause (a) the word “and” shall be inserted; and

(ii) in sub-section (3), for the expression “clause (c)”, the expression “clause (a)” shall be substituted.

Amendment
of section
56-C, Madras
Act IV of
1919.

4. In sub-section (1) of section 56-C of the said Act, for the first sentence beginning with the word “Vacancies” and ending with the words “as councillors on the said day”, the following sentence shall be substituted, namely :—

[*Vide p. 87, Vol. III.*]

MADRAS ACT No. XXI OF 1939. ¹

[THE MADRAS CITY MUNICIPAL, DISTRICT MUNICIPALITIES AND LOCAL BOARDS (AMENDMENT) ACT, 1939.]

[*Received the assent of the Governor on the 20th August 1939, first published in the Fort St. George Gazette on the 29th August 1939.*]

An Act further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Madras
Act IV of
1919.

Madras
Act V of
1920.

Madras
Act XIV of
1920.

Short title.

1. This Act may be called the Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1939.

Amendment
of sections
59 and 101,
Madras Act
IV of 1919.

2. In the Madras City Municipal Act, 1919—

Madras Act
IV of 1919.

(i) in section 59, the second proviso to clause (c) of sub-section (2) shall be omitted; and

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 25th July 1939, Part IV, pp. 295-296.

(ii) to section 101, the following proviso shall be added at the end, namely :—

[*Vide p. 106, Vol. III.*]

Madras Act
V of 1920.

3. In the Madras District Municipalities Act, 1920—

Amendment
of sections
43, 83 and
303, Madras
Act V of
1920.

(i) in sub-section (2) of section 43, for the last sentence, the following sentence shall be substituted, namely :—

[*Vide p. 370, Vol. III.*]

(ii) in sub-section (1) of section 83—

(1) clauses (c), (d) and (e) shall be relettered (g), (h) and (i) respectively, and for clauses (a) and (b), the following clauses shall be substituted, namely :—

[*Vide pp. 393–394, Vol. III.*]; and

(2) after clause (i) as so relettered, the following proviso shall be inserted, namely :—

[*Vide p. 394, Vol. III.*]; and

(iii) in sub-section (2) of section 303, the second proviso to clause (b) and the word “and” at the end of the first proviso shall be omitted.

Madras
Act XIV of
1920.

4. In the Madras Local Boards Act, 1920—

Amendment
of sections
22-A, 47, 49,
99 and 199,
Madras Act
XIV of
1920.

(i) for clause (b) of sub-section (2) of section 22-A, the following clause shall be substituted, namely :—

[*Vide p. 650, Vol. III.*]

(ii) in sub-section (2) of section 47, for the last sentence, the following sentence shall be substituted, namely :—

[*Vide p. 669, Vol. III.*]

(iii) in sub-section (2) of section 49, for the last sentence, the following sentence shall be substituted, namely :—

[*Vide p. 670, Vol. III.*]

(iv) in section 99—

(1) clauses (c) and (d) shall be relettered (g) and (h) respectively, and for clauses (a) and (b), the following clauses shall be substituted, namely :—

[*Vide p. 698, Vol. III.*]; and

(2) after clause (h) as so relettered, the following proviso shall be inserted, namely :—

[*Vide p. 698, Vol. III.*]; and

(v) in section 199, the second proviso to clause (b) of sub-section (2) shall be omitted.

MADRAS ACT No. XXII OF 1939.¹

[THE MADRAS TEMPLE ENTRY AUTHORIZATION AND INDEMNITY ACT, 1939.]

[Received the assent of the Governor-General on the 4th September 1939, first published in the Fort St. George Gazette on the 11th September 1939.]

An Act to authorize and indemnify trustees, officers and other persons in respect of entry into and offer of worship in Hindu temples by certain classes of Hindus who by custom or usage are excluded from such entry and worship.

WHEREAS there has been a growing volume of public opinion demanding the removal of the disabilities imposed by custom and usage on certain classes of Hindus in respect of their entry into and offering worship in Hindu temples ;

AND WHEREAS it is just and desirable to authorize the trustees or other authorities in charge of such temples to throw them open to, and permit, persons belonging to the said classes to enter into and offer worship in such temples, and that no person should suffer any civil or criminal penalty or disadvantage by reason of anything done in connexion with such entry and worship ;

AND WHEREAS a situation has arisen in the city of Madura and elsewhere in the Province of Madras in which it has become necessary to indemnify and protect officers of Government, trustees, priests and other persons in respect of acts done, steps taken or alleged failure of duty on the 8th day of July 1939 and thereafter of the nature aforesaid ;

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Madras Temple Entry Authorization and Indemnity Act, 1939.

(2) It extends to the whole of the Province of Madras.

Indemnification of officers and other persons for certain acts, etc.

2. No officer of Government, no executive authority, officer or servant of any Local Board or Municipality, no trustee, officer or other authority constituted or acting under the Madras Hindu Religious Endowments Act, 1926, or any other law, no priest or person officiating as such and no person entering or offering worship or assisting or acting under the authority of or with the permission of such officer, servant, authority, trustee, priest or person officiating shall be prosecuted, sued or otherwise proceeded against in respect of any act done or step taken or any alleged failure of duty on the 8th day of July 1939 or on any subsequent date up to the commencement of this Act, in furtherance of, or in connexion

Madras Act II of 1927.

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 1st August 1939, Part IV, p. 306.

with, the entry into and offer of worship in the Sri Meenakshi Sundareswarar temple in the city of Madura or any other Hindu temple in the Province of Madras by any person belonging to classes of Hindus hitherto excluded by custom or usage from such entry or worship ;

and all officers, servants, authorities, trustees, priests and other persons aforesaid are hereby indemnified and discharged from all liability in respect of all such acts, steps and alleged failure of duty.

3. If in the opinion of the trustee or other authority in charge of any Hindu temple in the Province of Madras the worshippers of such temple are generally not opposed to the removal of the disability imposed by custom or usage on certain classes of Hindus in regard to entry into or offer of worship in such temple, such trustee or other authority may, with the approval of the Provincial Government and notwithstanding anything contained in the Madras Hindu Religious Endowments Act, 1926, or any other law, throw open the temple to such classes and thereafter persons belonging to such classes shall have the right to enter into and offer worship in such temple :

Throwing open of temples in certain circumstances.

Madras Act II of 1927.

Provided that in the case of the temples specified in the Schedule to this Act and other Hindu temples in the Province which have been thrown open to the classes aforesaid before the commencement of this Act, such approval shall not be required and the said temples shall be deemed to have been thrown open to the classes aforesaid under the provisions of this section.

Explanation.—If more persons than one are the trustees or constitute the other authority in charge of the temple, a majority of them shall be entitled to decide and act in terms of this section.

4. No person who enters or offers worship in any temple thrown open or deemed to be thrown open under the provisions of section 3 shall by reason only of such entry or worship be deemed to have committed any actionable wrong or offence or be sued or prosecuted therefor.

No actionable wrong or offence committed by entry or worship in temples thrown open.

5. No suit for damages, injunction or declaration or for any other relief, no prosecution for any offence, and no application or other proceeding under the Madras Hindu Religious Endowments Act, 1926, or any other law shall be instituted in respect of any entry into, or worship in any temple thrown open or deemed to have been thrown open under section 3, on the ground that such entry or worship is against the usage or custom which excludes certain classes of Hindus from such entry or worship ; and no suit or other proceeding shall be instituted in respect of such entry or worship on the ground that

Sanction for institution or continuance of action.

Madras Act II of 1927.

738 *Temple Entry Authorization and Indemnity* [1939 : Mad. Act XXII]
Co-operative Land Mortgage Banks (Amendment) [1939 : Mad. Act XXIII]

there has been any irregularity or failure in complying with the provisions of section 3, without the previous sanction of the Provincial Government. No suit, prosecution, application or proceeding of the nature aforesaid instituted before the commencement of this Act shall be continued thereafter without the sanction of the Provincial Government.

Amendment of section 40, Madras Act II of 1927. 6. In section 40 of the Madras Hindu Religious Endowments Act, 1926, after the words and figures " Subject to the provisions of the Malabar Temple Entry Act, 1938 " the words and figures " and the Madras Temple Entry Authorization and Indemnity Act, 1939 " shall be inserted. Madras Act II of 1927.

SCHEDULE.

(See proviso to section 3.)

1. Sri Meenakshi Sundareswarar temple, Madura.
2. Sri Kudalalagar temple, Madura.
3. Sri Sundararajaperumal temple, Valayapatti, Melur taluk, Madura district.
4. Sri Kalamgaperumal temple, Tirumohur, Madura taluk, Madura district.
5. Sri Brahadeeswarar temple, Tanjore.
6. Sri Tirukuttalanathaswami temple, Courtallam, Tenkasi taluk, Tinnevely district.
7. Sri Kasi Visvanathaswami temple, Tenkasi, Tenkasi taluk, Tinnevely district.

MADRAS ACT No. XXIII OF 1939.¹

[THE MADRAS CO-OPERATIVE LAND MORTGAGE BANKS (AMENDMENT) ACT, 1939.]

[Received the assent of the Governor-General on the 12th September 1939, first published in the Fort St. George Gazette on the 26th September 1939.]

An Act further to amend the Madras Co-operative Land Mortgage Banks Act, 1934, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Co-operative Land Mortgage Banks Act, 1934, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Co-operative Land Mortgage Banks (Amendment) Act, 1939.

Insertion of new section 29-A in Madras Act X of 1934. 2. After section 29 of the Madras Co-operative Land Mortgage Banks Act, 1934, the following section shall be inserted, namely :—

[Vide pp. 404-406 *supra*.]

¹ For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated 18th July 1939,—Part IV, pp. 281-282.

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